490

SUPREME COURT OF THE UNITED STATES,

No. ~~75~~ 18

JOHN COULSON, APPELLANT,

VERSUS

JAMES WALTON ET AL.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE DISTRICT OF WEST TENNESSEE.

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At a circuit court of the United States, begun and held at Nashville, and for the district of West Tennessee, on the seventeenth day of September, in the year A. D. one thousand eight hundred and thirty-one, and of the independence of the United States the 56th:

Before the honorable John McLean, Associate Justice of the Supreme Court of the United States:

JAMES WALTON, et al., compt's,
vs.
JOHN COULSON, et al., deft's. } *O. Bill.*

Be it remembered that, heretofore, to wit, on the 22d day of June, 1822, James Walton and Isaac Walton filed their bill of complaint in this court, in the words and figures following, to wit:

O. Bill.

To the honorable Circuit Court of the United States for the 7th Judicial Circuit for the District of West Tennessee.

The bill of complaint of James Walton and Isaac Walton, citizens of the State of Tennessee, against John Coulson, a citizen of the State of Virginia, defendant:

Humbly complaining, show unto your honors, your orators, James Walton and Isaac Walton, citizens of the State of Tennessee, and resident in the district of West Tennessee, that, on the 22d day of February, 1786, a certain entry in the land office of North Carolina, by Isaac Coulson, assignee of David Welles, for six hundred and forty acres of land on the north side of Cumberland river, nearly opposite the mouth of Caney fork, at Capt. Wm. Watson's upper corner, or large maple, on the bank of the river; runs up the river, and, with said Watson's line, for complement: and that afterwards, on the 2d day of January, 1787, in the district of West Tennessee, the said Isaac Coulson, so having the title to said land by entry, made and executed to one Josiah Payne a bond for the conveyance of said tract of land, in the words and figures following, to wit; which bond was given for the valuable consideration therein stated:

"Know all men by these presents, that I, Isaac Coulson, of the State of North Carolina, and county of Davidson, do oblige myself, my heirs and assigns, to pay to Josiah Payne 100 pounds in Virginia currency, in payment for a certain bay stud horse I bought of him, within twelve months from the date hereof, with lawful interest; otherwise, in lieu thereof, I do oblige myself to make over all my right and interest of a certain entry and warrant of land of 640 acres, lying on the north side of Cumberland river, on said river, about one or two miles above the mouth of the Caney fork, unto the said Josiah Payne, of the county and state aforesaid, or his heirs and assigns, and if a deed or grant should issue to me before said entry or warrant should be transferred from me to said Payne, then, and in that case, I do hereby oblige myself to make a transfer deed of all my right, title, and interest of the aforesaid land, unto the aforesaid Josiah Payne, or his assigns, which deed and right, when made, is to be taken in full payment for the 100 pounds and interest; and I do hereby oblige myself to warrant and defend said

deed from me, my heirs and assigns, for ever, unto the said Payne and his heirs.

In witness whereof, I do hereby fix my hand and seal, this 2d day of January, 1787.

(Signed) ISAAC COULSON. [L. S.]

Witness present:
JAMES DONELSON,
WILL. BUSH.

Which bond or obligation was delivered to the said Josiah Payne, by the said Isaac Coulson; and your orators further show, that the said Isaac Coulson, elected to pay the said sum of one hundred pounds, by giving the land as expressed in the above recited bond of conveyance, which mode of payment was also assented to by said Payne. That said Isaac Coulson died intestate some time in the year 1791, leaving one son, John Coulson, who was heir to all his lands by the laws of North Carolina, and that the grant from the State of North Carolina, which issued for said lands to said Isaac Coulson, described the land as follows: 640 acres, lying and being in our county of Davidson, on the north side of Cumberland river; beginning nearly opposite to the mouth of Caney fork, at Capt Walton's southeast corner, a large maple on the bank of the river; runs north, with the said Walton's line, 636 poles to an ash on said line; thence east 169 poles to a lynn on the bank of said river; thence down the said river, including its meanders, to the beginning; which grant is dated the 15th day of September, 1787, and the land is in what is now Smith county; and your orators further show, that the said Isaac Coulson died in the State of Virginia, without making any conveyance of said tract of land; and, in 1797, the said Josiah Payne went to Grayson county, in Virginia, and applied to the widow and administrator of said Coulson for a conveyance, and application was made to the court of said county to ascertain whether a conveyance could be made, as the widow and adminstrator were willing to make the conveyance. None, however, was made at that or any other time, and the said Payne, or Will. Walton, paid, or caused the taxes to be paid, on the land from 1796 to the time when suits of ejectment were brought as herein after mentioned; and said Payne claimed the land as his own, until he agreed to sell and convey a part of the same to Will. Walton, the father of the complainants, to wit: about seventy-two acres, which is butted and bounded as stated in a deed from Sarah Payne to James Walton, dated the 23d May, 1807, and registered in Smith county; which deed was made by the direction of said Will. Walton, and the consideration was an exchange of 100 acres of other land for which the said William Walton gave a deed to Benjamin Johns, by direction of said Josiah Payne, who was indebted to said Johns, and said contract for the exchange was made some time, as your orators believe, in 1798. The said William Walton, by his tenants, took posession of said part of said tract in 1799 or 1800, and made improvements thereon, and continued in possession undisturbed until the commencement of the suits; and your orators further show that, some time in the fall of 1805, the said Josiah Payne departed this life intestate, leaving Patsey Payne, Zachariah Payne, Spencer Payne, Minerva Payne, Sylvia Payne, Anne Payne, Betsy Payne, and Polly Payne, his heirs at law, and Sarah Payne his widow, who also took out letters of administration upon his estate; that, in 1806, the said Will.

Walton, father of your orator, made an agreement with the said Sarah Payne, with the assent of all the children of the said Josiah Payne who were of age, to sell the residue of the said tract of land of six hundred and forty acres, for $2,500, and the said Sarah, in conformity with the directions of said William Walton, conveyed 136 acres of said tract by deed bearing date the 20th day of June, 1807, to your orator James Walton, and the residue of the 640 acre tract to your orator Isaac Walton, by deed bearing date the 15th June, 1814; which deeds are registered in Smith county, and to which your orators beg leave to refer. That the said William gave his bond for the consideration money, part of which has been paid and received by said Sarah Payne, and by the heirs of said Josiah Payne, and the residue will be paid upon receiving a title for said land. The said Sarah is now deceased, and her property is now distributed among the said children and heirs; valuable improvements have been made by your orator upon the said tract of land, and they continued undisturbed in possession, until the 20th May, 1814, when delarations in ejectment were served upon the tenants in possession at the suit of Doe, lessee of Jno. Coulson and others, the said John being the son and sole heir at law of the said Isaac Coulson to recover possession of the said 640 acre tract of land herein before described; which suits were commenced in your honorable court, and judgments obtained for the whole of said tract, at the last June term, A. D. 1821; and your orators further show, that the children and heirs at law of the said Josiah Payne are citizens of the State of Tennessee; that they were not parties to the actions of ejectment, and they cannot be made defendants to this bill agreeably to the acts of Congress conferring jurisdiction upon this court; that your orators have not been able to obtain the consent of all of said heirs to be made parties complainants, but they trust they will be able to do so before the next term of this court; that the said John Colson, notwithstanding the bond of conveyance herein before specified, refuses to comply with said contract, and threatens to take out writs of possession, and turn the complainants out of possession.

All which is contrary to equity and good conscience, and for which your orators have no redress, except in the interposition of a court of equity. In consideration whereof, your orators pray that the said John Colson may be made defendant to this bill, and that he may true and perfect answer make to all and singular the matters herein before stated, in the same manner as if they were here again repeated, and he thereunto particularly interrogated, and that the said John Colson, his agents, attorneys, and counsellors, may be perpetually enjoined from taking out any writs of execution, or writs of possession, in the two actions of ejectment before mentioned; and, if the heirs of said Jos. Payne will consent to be made parties complainant to this bill, that, in that case, the said John Colson may be decreed to convey, by good and proper deeds of conveyance, the said tract of land, to the heirs of said Payne, and the said heirs to your orators, upon the payment of the residue of the purchase money, or that your honors would give such further and other relief as is agreeably to equity and good conscience.

May it please your honor to issue the United States' writs of subpœna directed to said John Colson, commanding, &c.; and also writs of injunction, enjoining the taking out any writ or writs of possession, or executions, until the final hearing of this cause, &c.; and your orators, &c.

Affidavit of Complainant.

UNITED STATES OF AMERICA, } *Circuit Court U. S. for said District,*
District of West Tennessee. } *at June term,* 1822.

This day personally appeared in open court, James Walton, one of the complainants in the foregoing bill of complaint, and made oath that the matters therein contained, as stated of his own knowledge, are true; and those stated not of his own knowledge, he believes to be true.

JAMES WALTON.

Sworn to, and subscribed in open court, 22d June, 1822.

N. A. McNAIRY, *Clerk.*

Pro. Bond.

I acknowledge myself the complainants' security in the penalty of three hundred dollars, to prosecute this bill with effect, or payment of all costs on failure therein.

Witness my hand and seal, this twenty-sixth June, eighteen hundred and twenty-six.

J. RUCKS. [SEAL.]

And, in the month of September, 1825, the complainants, by their counsel, come and file their supplemental bill, in the nature of a bill of revivor, and the said suit is revived by consent; which is in the words and figures following, to wit:

Bill of Revivor.

To the honorable Circuit Court of the United States for the District of West Tennessee:

The bill of revivor and supplement of James Walton and Nathaniel W. Williams, citizens of the State of Tennessee, complainants, against John Colson, a citizen of the State of Virginia, defendant:

Humbly complaining, show unto your honors, your orators, James Walton and Nathaniel W. Williams, citizens of the State of Tennessee, that on or about the 22d day of June, 1822, your orator, James Walton, together with Isaac Walton, since deceased, exhibited their original bill of complaint in this honorable court, against John Colson, a citizen of Virginia, thereby stating such matters and things as are therein, for that purpose, more particularly mentioned and set forth; and praying that said Colson might be perpetually enjoined from taking out any writs of possession or writs of execution in the two actions of ejectment therein mentioned, and for further relief as, by said bill, will more fully appear; to which the said Colson filed his answer, stating such matters and things as therein particularly set forth. To which answer there was a replication; and depositions and proofs have been taken in the cause, as will more fully appear by reference being had to the records and papers on file in this honorable court; and your orators, by way of supplement in nature of a bill of revivor, show that, afterwards, to wit, on the day of , the said Isaac Walton, one of the complainants, departed this life, having first made and published his last

will and testament, which has been duly proved and recorded in the county court of Smith county, the place of the residence of said testator in his life time, and thereby, among other things, devised the tract of land in said original bill mentioned to your orator, the said Nathaniel W. Williams, his heirs and assigns, for ever, as by said will more fully and at large appears; and your orators show that the said N. W. Williams, by virtue of said will, claims to be entitled to all the right and interest of the said Isaac Walton, deceased, in and to said tract of land, and the appurtenances, and that the said suit and proceedings having become abated by the death of said complainant, Isaac Walton, your orators are advised that they are entitled to have the same revised in the name of the said Williams, as the devisee of the said Isaac, and to prosecute the same in their joint names, and to have the same benefit thereof as could or might have been had against the said John Colson, as the said Isaac could have had were he living. To the end, therefore, that the said suit and proceeding, which so became abated as aforesaid, may stand revived, and be in the same plight and condition as the same were in at the time of such abatement, and that your orators may have the benefit of the said suit and proceedings against the said Jno. Colson, and the depositions and proofs taken in the said cause, and, for further relief, may it please your honors to order a writ of subpœna directed to said Jno. Colson, commanding, &c.

FOGG, BROWN, & GRUNDY,
Solicitors.

And the said complainants, by their counsel, at June term, 1829, filed their amended and supplemental bill in this court; which is in the words and figures following, to wit:

Amended Bill.

To the honorable Circuit Court of the United States for the District of West Tennessee:

The amended and supplemental bill of complaint of James Walton, Nathaniel W. Williams, Greenwood Payne, and Martha his wife, Spencer Payne, Zachariah Payne, Robert Booth, and Minerva his wife, Gideon Pillow, and Anne his wife, William Payne, and Betsy his wife, Jane McGregor, and Mary Anne McGregor, infants, by their father and next friend Flower McGregor, Will. McGregor, John McGregor, Ramsford McGregor, Sarah McGregor, and Albert McGregor, Jacob Tilman, and Julia his wife, George W. Payne, son of George Payne, deceased, an infant, by Paul Dismukes, his guardian, William Cox, and Mary, or his wife Polly, Paulina Payne, Enos H. Payne, Minerva Payne, Elvira Payne, the four latter of whom, as also the said Mary Cox, are children of Squire Payne, deceased, who was one of the children of Josiah Payne, infants, by James Rucks, their next friend, complainants, all citizens of the State of Tennessee at the time of the commencement of this suit, against John Colson, a citizen of the State of Virginia, defendant:

Humbly complaining, show unto your honor, your orators and oratrixes above named, all citizens of the State of Tennessee, that your orators and oratrixes Martha Payne, Spencer Payne, Zachariah Payne, Minerva Booth, Anne Pillow, Betsey Payne, are all children of Jos. Payne, deceased, who

died intestate, and your orators and oratrixes the McGregors, above named, and Julia Tilman, are children and heirs at law of Mary or Polly McGregor, who was one of the daughters and heirs at law of the said Jos. Payne; your orator George W. Payne is the son of George Payne, one of the children and heirs of the said Josiah; and the said Polly P., Paulina, Enos H., Minerva, and Elvira, are the children and heirs at law of Squire Payne, deceased, who was also one of the children and heirs of the said Josiah. That heretofore, to wit, on the 22d June, 1822, a bill was filed in this honorable court, by James Walton and Isaac Walton, against the said Jno. Colson, the contents and prayer of which will more fully and at large appear by reference to said bill of complaint now on file among the records of this court, and to which reference is hereby had; to which bill of complaint the said John Colson appeared, and answered, as by reference to his answer will more fully appear: to which a replication was filed, and depositions afterwards taken on both sides, and publication thereof made: and, subsequently, the said Isaac Walton died, having, by his last will and testament, devised the land, sought to be recovered by this bill, to Nathaniel W. Williams, in whose name, and that of the said James Walton, a supplemental bill, in nature of a bill of revivor, was, on the 29th September, 1825, filed in this court, and the suit was afterwards, by an order of this court, revived. Your orators and oratrixes further show that this cause was continued from term to term until the last term of this honorable court, when an order was made that the heirs of said Joseph Payne should be made parties complainants to the cause, and that they should admit the answer already filed as an answer to the amended and supplemental bill, and agree that the depositions taken might be read, and other requisitions which will more fully and at large appear, by reference to the said order now on the records of this honorable court; to which your orators and oratrixes pray leave to refer. Your orators and oratrixes are willing to submit to all the terms of said order, and to be all joined as parties to said original and supplemental bill. In consideration of the premises, your orators and oratrixes pray that the defendant, John Colson, be made defendant, and that his answer be received as an answer to this bill; and they also pray that the prayer of said original bill may be granted, and that said Jno. Colson may be decreed to convey, by good and proper deeds of conveyance, the tract of land in the pleadings mentioned, to your orators and oratrixes, the heirs of said Josiah Payne; and specifically to perform the contract made by said Josiah Payne with said Isaac Colson in their life time; and that all right, title, and interest, of the said Jno. Colson in and to the said land and appurtenances be divested, and vested in your orators and oratrixes, or in the said James Walton and Nathaniel W. Williams, upon the latter paying the balance of the purchase money to your said orators and oratrixes, the heirs of said Payne; and that said contract between William Walton and your orators and oratrixes be carried into specific execution, and that said Jno. Colson be perpetually enjoined from suing out any writ of possession by virtue of the recovery in ejectment, and that your orators and oratrixes may have other and further relief as is consistent with equity. May it please your honors. &c., by

BROWN, GIBBS, ANDERSON, & FOGG,
Their Solicitors.

And the said defendant, by his counsel, at May rules, 1823, comes and files his answer, which is in the words and figures following:

Answer of Coulson.

The answer of John Coulson, of the Commonwealth of Virginia, to the bill of complaint of James and Isaac Walton, filed in the Circuit Court of the United States for the Seventh Circuit and District of West Tennessee:

This respondent reserving to himself now, and all times hereafter, all usual and formal exceptions to the manifold uncertainties and untruths in said bill contained, for answer thereto, or to as much thereof as he is advised it is material for him to answer unto, answers and says, that it is true there was entered by, and granted to, respondent's father, Isaac Coulson, 640 acres of land, as set forth by the bill; and respondent further admits, that he recovered the same in ejectment in the court where the bill is filed, at the time stated; and which suit at law was defended by the complainants.

And defendant, further answering, says that he positively denies that any such bond, as is set forth in the bill, was ever executed by his father Isaac Coulson to Josiah Payne; and that the papers which is pretended to be the title bond of his father, is a forgery; and he further says, that, if this suit had been brought in any reasonable time after the death of respondent's father, the forgery could have been proven, had such paper been produced.

And respondent has little doubt that said instrument, in the bill set forth, was forged after the death of Josiah Payne, by the agency of one Geo. Payne; and some of the reasons that induce respondent to believe so, are, that Josiah Payne, in his life time, repeatedly admitted to the mother of respondent, and, particularly, to the mother of Jacob Coulson, the uncle of respondent, and who was the administrator upon the estate of Isaac Coulson, that he, Josiah Payne, had no writing which evidenced the debt due him from Isaac Coulson for a stud horse purchased from said Payne, who then alleged that a negro boy, between the age of 7 and 12 years, was due him for said horse. In the spring of 1806, the said George Payne brought the paper, which is now relied upon, as respondent supposes, to Grayson county, Virginia, and exhibited the same to Jacob Coulson, as administrator of Isaac Coulson; and which pretended bond was pronounced a forgery by said Jacob Coulson, for the reasons stated in his affidavit hereto annexed. In 1807, Jacob Coulson was old and infirm, and fearing that all knowledge he had upon the subject would be lost if he should die without, in some way, testifying the facts, he, said Jacob, went before a justice of the peace, and made affidavit, a copy of which is hereunto annexed, and made a part of this answer; and respondent further says, that he has no doubt but that said suit in equity has been procrastinated to this late day, because of the knowledge the complainants, and those under whom they claim, had, that the pretended title bond relied upon could be proven a forgery, if brought forward while the witnesses were living.

The allegation in said bill, that the land in controversy had been holden by Josiah Payne and the complainants, under and by virtue of the pretended title bond, is strictly untrue; but the truth is, and which the complainants well knew, that the said Payne was employed by Jacob Coulson, (who took it upon himself to act as guardian of respondent,) to take care of the land

in dispute, and to occupy and improve the same by placing tenants thereon for the benefit of this respondent; and that said Payne was to pay the taxes upon said land, and, under this agreement, the said Payne took possession of said land, and leased to said Will. Walton, in the bill mentioned, about 1800, and perhaps earlier.

It is true that, about 1805, said Josiah Payne and Wm. Walton conspired together to cheat respondent out of his land, by a fraudulent tax sale which took place after the death of said Payne, to wit: in the spring of 1806, all of which will more fully appear by a copy of the record of said sale herewith filed; and respondent was much perplexed at law to establish the fraud in the tax sale; and that the land was occupied by said Payne and Walton as the tenants of respondent.

It is admitted that respondent's father died in 1791, and that this respondent was then about three years old, and that he is the only son and heir at law of Isaac Coulson; and he further saith, that Jacob Coulson did, on the 29th day of October, 1794, administer upon the estate of Isaac Coulson, in the county of Grayson, and State of Virginia, the residence of the said Isaac Coulson at the time of his death, and for many years previous thereto; and which county was also the place of residence of Jacob Coulson from the time he administered until the time of his death, about 1807.

And this respondent has also resided in said county from the time of his birth until the time of making this answer.

And this respondent relies upon the length of time that has intervened between the year 1787, and the filing of this bill, in bar of this suit.

He also states that it is untrue that any application was made to respondent's mother, as administratrix of Isaac Coulson, for a title to said land; for the mother of respondent never was the administratrix upon said estate—Jacob Colson being the only and sole administrator.

And respondent expressly denies that any claim or demand was made for the title to said tract of land from Jacob Colson, or from this respondent, for any suit at law, or in equity, brought upon said bond, set forth in the bill, within three years, or within seven years before the filing of this bill of complaint, or within three years, or seven years after the death of respondent's father, or within said time after administration granted upon said estate, to Jacob Coulson, nor in any other manner than as above set forth; and, therefore, the respondent relies upon the statute passed in the year 1715, C. 48, and sec. 9, in bar of this suit; and respondent also relies upon the 4th section of the act of Assembly of the State of North Carolina, chap. 23, sec. 4, in bar of said suit, praying all the benefits of said acts of Assembly of the province and State of North Carolina, and that the defendant would be entitled to by way of plea.

Without this, that there is any other matter or thing in complainant's bill set forth and alleged, which is not already answered, traversed, or denied. Wherefore, the defendant prays he may be hence dismissed with his reasonable costs and charges to be adjudged to him.

By CATRON, *his Counsel.*

COMMONWEALTH OF VIRGINIA, *Grayson County, sct.*

This day of , 1823, appeared before me, , a justice of the peace, for the aforesaid county and commonwealth, the defendant above named, Jno. Coulson, who is known to me, and made oath,

in due form of law, that the matters and things which are above set forth, and alleged by way of answer to the bill of complaint of James and Isaac Walton, so far as said matters and things come within his, respondent's, own knowledge, are true; and that those matters which are set forth upon the information of others, he believes to be true.

Affidavit.

STATE OF TENNESSEE, *Granger County, sct.*

I, Thomas Brown, one of the justices of the court of pleas and quarter sessions for said county, do certify, that Jno. Hill this day came before me, and made oath that he, the said Hill, was in the commission of the peace for the county of Grayson, commonwealth of Virginia, and that Jacob Colson being old, infirm, but of sound mind, came before him, the said Hill, and made solemn affirmation as follows, to wit: Grayson county, Jany. 30th, 1807, this day came Jacob Coulson, before me, Jno. Hill, one of the commonwealth's justices, assigned to keep the peace in the said county, and made solemn affirmation as follows: Some time before my brother Isaac Coulson's death, myself and Josiah Payne, and my brother Isaac Coulson, travelled together about one hundred miles, and a conversation passed amongst us concerning the purchase of some land my brother Isaac *made* in Cumberland; and further, that my brother had purchased a horse of the said Payne, for which my brother was to pay one negro between the age of 7 and 12 years old, to the amount of 70 pounds value, and the above named Jos. Payne and Isaac Coulson, both, repeatedly said that there was not any writing between them, neither the scrape of a pen concerning any thing; and since my brother, deceased, Josiah Payne came in to me, in Grayson, and never producing any writing; and I employed said Payne to pay the taxes of the above named land. One day as we were sitting at James Raddish's spring, as is now, William Dilling being present, the land, as I am informed, lies on Cumberland river, and is bounded as follows: beginning at nearly opposite the Caney fork, at Capt. William Walton's south corner, or a maple on the bank of the river, running north with said Walton's line, 636 poles, to an ash on said Walton's line; thence east 169 poles, to an elm on the bank of the river, over several meanders, to the beginning; containing 640 acres, Sumner county, but now Smith county, in Tennessee; and last spring, 1806, George Payne came in from Cumberland, and produced a bill of sale to me, as I was admr., which I refused, and did suppose it to be counterfeit, and still think so, knowing my brother's handwriting, which I think that was not, and his name being not spelt right. I immediately took down the names of the witnesses to the bill of sale, which was James Donelson and William Bush.

Qualified before me, the day and year above written.

JNO. HILL, *J. P.*

And that he, the said Jno. Hill, has retained the said deposition in his possession ever since, and that the above is a true copy.

JNO. HILL, [SEAL.]

Subscribed and sworn to, this 27th day May, 1815.

Test: THOMAS BROWN,

Justice of the Peace of said County.

The above is a copy of the affidavit, as furnished me by Mr. Hill, of Granger county, Tennessee.

Coulson yet— J. FIELD.

And at June rules, 1823, the complainants, by their counsel, filed the replication to the answer of defendants, in the words and figures following, to wit:

Replication.

The replication of the complainants to the answer of Colson. These repliants, saving to themselves all manner of exception to the manifold insufficiences of the said answers, say, they will *aver*, maintain, and prove, their said bill of complaint, to be true, certain, and sufficient in law to be answered unto by said defendant; and that the said answer is untrue, uncertain, and insufficient in law to be replied unto by these repliants, all which matters and things, these repliants are willing to *aver*, maintain, and prove, as this honorable court shall direct, and humbly pray, as in and by their said bill of complaint they have already prayed.

GIBBS, FOGG, & BROWN,
For Complainants.

Order of Court, 1823.

And at June term, 1823, on motion of the defendant, by his attorney, it is ordered by the court, that the complainants filed in the clerk's office, by the first of October, the bond of Isaac Coulson under which the complainants claim title, for the use of the defendant in taking his depositions.

Order of Court, 1825.

At June term, 1825, on motion of the defendant, by his counsel, one month is allowed him, within which to take depositions, on giving either of the complainants, or Nathaniel W. Williams, esq., ten days notice of the time and place of taking the same; and the complainants are subject to the same rule in taking depositions, on giving notice to Fields.

Order of Court, 1825.

And at the same term aforesaid, on motion of the defendant, by his counsel, it is ordered by the court, that the depositions read at law in this cause, be read on the hearing of the cause in chancery, subject to all legal exceptions.

Order of Court, 1825.

And at the same term aforesaid, the death of Isaac Walton, one of the complainants in this cause, is suggested, and, on motion, leave is granted complainant to *a* file a bill of revivor, and supplemental bill, within three months of this date.

Order of Court, 1825.

And on the 15th day of the same term, ordered, by the court, that the defendant may take depositions at any time before the rule day in March next, notice to be served on the honorable Nathaniel W. Williams or James Walton, giving 10 days' notice, when the depositions are taken within one hundred miles of this place, and the interrogatories to be filed according to the rules of the Supreme Court of the United States; and the plaintiffs, also, have the same leave to take depositions on similar notice to Jeremiah Fields or Samson William, and interrogatories.

Order of Court, Nov. term, 1825.

At November term, 1825, of said court, the complainant, Isaac Walton, having departed this life, by consent of the parties, by their counsel, it is ordered by the court, that this cause be revived in the name of Nathaniel W. Williams, as devisee of the said Isaac Walton.

Order of Court, 1826.

At June term, 1826, on motion, it is ordered, that the defendant in this cause, at or before the trial thereof, give good and sufficient security for the performance of such decree as may be made made against him therein, and for the payment of such costs as may be adjudged against him.

Order of Court, 1828.

At June term, 1828, the plaintiffs' attorney moved to amend their bill, by inserting the names of the heirs of Josiah Payne; and at a future day of said term, on application of the complainants, by their attorney, leave is granted them to amend their bill, by inserting the heirs of Josiah Payne with them, as co-complainants, upon the following terms and conditions, namely: that they obtain the assent of said heirs, and make said amendment, and file a supplemental bill, making them co-complainants, on or before the 2d day by next June term of this court, and provided that said heirs, at the time of making such amendment for filing such supplemental bill, consent of record that the answer to the original bill, stand as an answer to the amended or supplemental bill; that the depositions, and all other proofs taken and filed in this cause, which could be read or used against them upon the trial of the cause; that the cause shall stand for trial at said June term next, and the complainants pay the costs of the amendment, and of this term; and it is ordered, that, unless said amendment or supplemental bill be filed as aforesaid, by the said 2d day of June term next, upon the terms aforesaid, the complainants' bill shall be dismissed for want of proper parties, without predjudice, at the costs of the complainants.

Order of Court, 1829.

At June term, 1829, this cause having been argued by counsel on both sides, and afterwards a motion entered for re-hearing, it is considered by the court that said motion be continued, and also the injunction in this cause.

Order of Court, 1829.

On the 9th day of June term, 1829, on motion of the complainants' counsel, the rule granted them at the last term, to amend their bill on or before the present day of this term, is extended as to time until Saturday next.

Order of Court, 1829.

And on the 13th day of June, 1829, on motion of the complainants, by their counsel, they are permitted to file their amended and supplemental bill in this behalf, in conformity to the rules of this court, made in this cause at June term, 1828.

And at June term, 1829, the complainants, by their counsel, come and file their petition for a re-hearing, in the words and figures following, to wit:

Petition for re-hearing.

To the honorable John McLean, Judge of the Circuit Court of the United States for the District of West Tennessee:

In Chancery, { Between the heirs of JOSIAH PAYNE, and JAMES WALTON, and NATHANIEL W. WILLIAMS, Complainants, *and* JOHN COULSON, Defendant.

The petition of the complainants, for a re-hearing, showeth that, in the decreee of your honor, rendered in this cause on the 20th instant, ordering the injunction to be dissolved, and possession to be given the defendant, your petitioners conceive themselves aggrieved.

Your honor's opinion that there is a want of equity in the complainants' bill on account of the want of interest in Walton, your petitioners request may be recognized, for the following reasons:

1. Josiah Payne, in his life time, sold to, or exchanged a part of this land with William Walton, executed his bond therefor, and acknowledged in that bond that he received the consideration from Walton. Walton, it is true, assigned that bond to Sarah Payne; but it appears that Sarah Payne received that assignment merely for the purpose of executing a deed to James Walton, one of the complainants, for the same lands comprehended in the bond. That deed is among the exhibits in the cause, and proves that S. Payne transferred her equitable interest in the land to one of the complainants.

2. The possession was taken under the Paynes, and continued always by a claim under and in subordination to them. It would be hard to change this possession, and give it to an adversary who has no equitable interest in the land, and nothing but a bare legal title.

3. The heirs of Josiah Payne and James Walton, and the devisee of Isaac Walton and co plaintiffs, not claiming in opposition to each other, but desirous that the legal title may be transferred from the defendant, who is not entitled to retain it as against the complainants.

Your petitioner, therefore, humbly prays your honor to re-hear the said cause so far as it respects that part of the said decree. By

W. L. BROWN, W. E. ANDERSON, & FRS. B. FOGG,
Their Counsel.

We conceive that this cause is proper to be heard again before your honor.

W. L. BROWN,
F. B. FOGG.

June 22d, 1829.

The following is added as a brief:

Brief.

There is no issue in this cause as to the consideration money paid by Walton to Payne, or to Payne's heirs. It is *res litigata*, not a matter in dispute between these parties. The defendant resists a decree, because, 1, the bond of his ancestor is a forgery; 2, length of time; 3, statute of limitations. He does not deny, or bring into controversy, the state of things existing between the co-plaintiffs. What difference can it make to the defendant whether the heirs of Payne have received from Waltons all the consideration money *his* ancestors was paid for the land? and the heirs of Payne and Walton, are before the court, and the court can make a complete decree.

The plaintiffs state in their bill that a part of the consideration money, as between themselves, was paid; that there was a contract of sale between the heirs of Payne and Walton; that the possession of Waltons was under Paynes, and was in fact that of Payne. This is not denied by the pleadings: no proof would be taken on that point. The case of Ryan and others, vs. Anderson and others, 3d Maddox 174, is in point.

This was the case of a bill by assignor and assignee, stating the assignment; and the defendants, in their answer, said they were wholly ignorant of the alleged sale and assignment by *Swabie* to *Ryan*. Sir S. Romilly, made the objections that Ryan's title was not admitted by the defendant, or proved in the cause. "The *vice* chancellor decided that the assignment by Swabie to Ryan, being matter wholly immaterial to the defendants, is not in issue in the cause, and could not be the subject of proof. The assignment from Swabie to Ryan is matter between the two plaintiffs, and the *statement of the fact in the bill*, to which *they are both parties*, is an admission of the fact by Swabie, on which the court is *bound* to act." In this cause, the Paynes, as co-plaintiffs with Walton, say they did sell to Walton; that Walton possessed the land as purchaser from them; that part of the consideration money has been paid and received by them, the Paynes. It matters not to Coulson how this may be. Suppose Walton was a mere tenant for years, or at will, under Payne by contract, and had been sued by Coulson in ejectment, and a recovery effected against the tenants, would not the court, upon a joint bill filed by the landlord and tenant, protect the possession of the tenant under the title of the landlord, and perpetually enjoin the issuance of a writ of possession?

If the Waltons had been the only parties to the bill, then it might have been said the injunction must be dissolved for want of proper parties; but the amendment was ordered by Judge Trimble, and made by the complainants

for the very purpose of adjudicating upon the right of the heirs Payne to the land. And if it had been impracticable to have made the heirs of Payne parties, on account of the limited jurisdiction of the federal courts, this court, even then, upon being satisfied that a bill would be filed in the State courts making Coulson and the heirs of Payne defendants, would, upon the authority of the case of Mallow vs. Hinde, 12 Wheaton, 198, have retained the cause and the injunction. See act of 1801, C. sec.

F. B. FOGG,
WILL. L. BROWN.

Order of Court, 1831.

And at September term, 1831, on motion of the complainants, by their counsel, ordered that Greenwood Payne be appointed guardian to Elvira Payne, Minerva Payne, Enos H. Payne, and Paulina Payne, minor orphans, to prosecute said suit for them, in the room of Jas. Rucks, heretofore appointed guardian for said heirs.

The following depositions were read in evidence in said cause, to wit:

Deposition of Will. T. Bush—No. 1.

1st. interrogatory. Do you know the parties, complainants and defendant, in the title of these interrogatories?

1st answer to the said interrogatory. He knows nothing of the parties in the title of the interrogatories.

2d interrogatory. Look upon the paper writing, now produced and shown to you—whether or no are you, by any, and what means, acquainted with the name and character of said writing of the said James Donelson, William Bush, and Isaac Coulson; and whether or no is the name of Isaac Coulson, James Donelson, and William Bush, subscribed or obligee, and witness to said writing of the handwriting of the said Coulson, Donelson, and Bush? Declare the truth of the several matters of this interrogatory, inquired after, according to their best of your knowledge and belief.

3d interrogatory. Tell all you know about said Bush, Donelson, and Isaac Colson, the character of the several handwriting.

Answer to to the 2d and 3d interrogatory. Answers, and says that he is altogether ignorant of James Donelson and Isaac Coulson, or their handwritings, having never seen them, or either of them, to my knowledge; that Wm. Bush, whose name is signed to the paper writing now produced, was the father of this deponent; that he was well acquainted with his handwriting, and entertains no doubt but that the said signature is in the proper handwriting of his said father; and further believes that the whole of the bond is in the handwriting of his said father, Wm. Bush; he further states that his father's handwriting varied in his early and late life, varied very much, but still resembled each other; some times wrote "*Wm. Bush*," and some times "*W.m. Bush*," in the early part of his life, he some times wrote "Wm. Bush." This deponent has heard, and believes that Michael Stoner and his father were partners in hunting. Stoner marries his father's neice, and they were frequently in Tennessee together, as he was informed by his father.

4th interrogatory. Do you know whether the said Wm. Bush, James Donelson, and Isaac Coulson, were in the neighborhood of Nashville, W. Tennessee, at any time from the year 1780 until the year 1795? How of-

ten were they, or either of them, there; and what business had they, or either of them, in any part of the State of Tennessee at any time? Tell all you know, &c.

4th answer to the 4th interrogatory. This deponent answers, as in the 2d and 3d interrogatory, that Stoner and his father were partners in hunting, as before stated, between the years of 1780 and 1795; their business he has no accurate knowledge of: as to Coulson and Donelson he knows nothing

The bond now produced is dated 2d of January, 1787, and is "referred" to, *enclosed*, and intended to be made a part of this deposition. It has my brother Elkanah Bush's name endorsed on the back of it. This deponent *says*, in Elkanah Bush's own handwriting, to the best of my knowledge, and am acquainted with his handwriting. Further this deponent saith not.

WILL. T. BUSH.

Deposition of William T. Bush—No. 2.

Question of defendant's agent, S. Williams. What was your father's name, and had he any double name; when did he die; and what was his age?

Answer. His name was William Bush. I never heard of his having any double name. He died about the year 1815, 1816, or 1817. If he were alive, he would be between seventy-five and eighty.

Question by same. From what State did your father, Wm. Bush, remove, and the year; and in what part of the western country did he first settle, and how long did he reside there? Be particular as to dates.

Answer. I know nothing except from information derived from my father and mother. I understood from them that my father came from Virginia; his first trip to Kentucky in 1773 or 1774; that he continued hunting in the western country, making several trips to Virginia, at intervals, until 1779, when he married in Orange county, Virginia. Soon after marrying, he left Virginia for the western country again, on a hunting trip, and in '81, he sent Thomas Burrows to Virginia for his family, which he took to Holston, and the family remained there for a year or more; from thence he moved his family to Logan's Station, now in Lincoln county, Kentucky, where he remained about a year; and from their moved to Clark county, Ky., to the place where he raised corn in 1775; and his family lived there, and in the neighborhood, until he died.

Question by same. Whom did your father marry?

Answer. He married Frs. Burroughs, who was living the last time I heard from her.

Question by same. Did your father ever live in West Tennessee? and was he there after the first settlements commenced on Cumberland river? and if he was, what station was he at, and with whom did he live?

Answer. I think he never made his home there. I have understood from him that he frequently hunted in West Tennessee; and some times was there months at a time. I have understood from him that he was there after the country began to settle. He bought land from some settler; and I think made entries. He did not, so far as I now recollect, tell me about the stations he was at. I understood from him that he hunted in partnership with Michael Stoner, a Dutchman, who was with him very often.

Question by same. Was your father a man of what is called a liberal education?

Answer. I do not know how much it takes to make a liberal education. He wrote any instrument pretty well, was a tolerable good surveyor, and good at figures; and was frequently called on by his neighbors to draw instruments of writing.

Question by same. Was your father ever engaged in business which required the drawing of mortgages, deeds, bonds, &c.? If so, was such writing done by himself, or any other person?

Answer. He was pretty deeply engaged in land business, selling and buying. The necessary instruments were generally drawn by himself.

Question by same. Was your father, Wm Bush, ever a surveyor? if he was, where did he survey? and was it in Kentucky or Tennessee, and in what years?

Answer. I do not know that he ever was either a principal or deputy surveyor, appointed by law. But I know of his doing a considerable quantity of surveying in laying off and dividing lands; the surveying which I knew of his doing, was in Kentucky, as far back as I can recollect, and until he became unable to do it. I do not know whether he ever surveyed any in Tennessee.

Question by same. From your knowledge of the history of your father, Wm. Bush, from the year 1785 to 1787, and the knowledge of his business, and the places of his residence, where did he reside at that time, and what occupation did he follow?

Answer. He resided in what now is Clark county, Kentucky, on the north side of Kentucky river, near Boonsborough, at the place before named, that he moved to. He had a farm, but did not attend to *him;* had a man hired to attend it. As well as I can now recollect, he was not at home two months in the year. I can recollect that it appeared like a visit when he came home. He was generally out on hunting expeditions, and engaged in locating lands, and hunting a silver mine in the latter part of the time.

Question by same. Were not the Indians very troublesome in harrassing the frontiers about that time, until 1794, the year of Wayne's campaign?

Answer. In the neighborhood of my father, I cannot say they were very troublesome. I recollect of their stealing several horses in about two miles; and, at another time, killing a negro, about 8 miles; but, at some distance from his house, considerable mischief was done, on the Virginia trace, and I suppose at other places.

Question by same. Did you not understand that the Indians were very troublesome in the Cumberland territory about that time, and from that time until 1794?

Answer. I cannot now say. If I heard any thing said about it, I have forgotten it. But I believe that, from 1785 to 1794, they were much more troublesome, in the western country, than they had been before. I recollect hearing, about that time, my father and Michael Stoner came upon an Indian unexpectedly, and took him prisoner. Stoner asked the Indian, if he came across their camp where their furs were deposited, whether he would steal them? The Indian answered y-e s. Stoner asked him if two Indians were to come on him by himself, whether they would kill him? The Indian answered y-e s. Stoner, in a violent passion, levelled his gun at the Indian to shoot him; but my father seized the gun, and held to it and Stoner, the Indian hanging to my father's back for protection. After having a smart scuffle with Stoner, my father told the Indian to take his gun, and make his escape. All this time Stoner cursing my father, and threatening to shoot

him. After the Indian got about 80 steps off, my father told Stoner he would then let him loose, and let him take a fair fight with the Indian, if he wanted to do so A party of Indians were then in the neighborhood; and my father and Stoner were compelled to move their camp and skins to some distance.

Question by same. I want you to be particular as to the dates that your father and Stoner hunted in the Cumberland country, and whether they were lower down than Price's settlement.

Answer. I understood from them, that they hunted in the western country, on Cumberland, and in other parts; and from 1775, until the country got settled. I do not know where Price's settlement is.

Question by same. Were you acquainted with Michael Stoner? Can you tell the year he settled in Kentucky, and what has become of him?

Answer. I was very well acquainted with Stoner; he came to Kentucky with my father, as I learned from them, in 1773 or '74. I think they hunted in partnership, as long as they packed their skins to Virginia. What time they dissolved, I do not know: they were very intimate, and he stayed much at my father's before he married. I never knew of his having any settlement in Kentucky, until some time between 1790 and 1800, or some where about that: he then settled two old negroes near my father's, on a small tract of land. He afterwards married a niece of my fathers, Frances Tribble, and stayed there some time. From thence he moved to Wayne county, Kentucky, or Pulaski, where he died about twelve years ago.

Question by same. Did you ever hear of Stoner joining a parcel of tories and Indians, and attacking a Spanish settlement on the Arkansas river, called the Post of Ozace?

Answer. I never did; but do think he would not join the tories in any thing. I do not think any man stood higher as a friend to his country.

Question by same. Have you ever heard your father, Will. Bush, speak of having any acquaintances on the Cumberland river, near Nashville? and, if so, when and where were those acquaintances formed, and who were they?

Answer. I have heard him speak of being there frequently; perhaps I have heard him name names, but if he did name any person, I have forgotten the names. I should suppose it probable that the acquaintance began from the first settlement of that country. I have seen travellers from that country, who seem to have been acquainted with him in early times.

Question by same. Was your father ever concerned in locating land in Tennessee? if he was, in what part of it?

Answer. I cannot say. If he was, I suppose he had transferred it before I knew of his business; I know nothing of his having any land in Tennessee, except the four hundred acres of land which he bought of Elliot at an early date, which he sold conditionally to a brother of Elliot. I went three times to Tennessee for my father to see about this land, and the condition not having been complied with, I brought said suit, I think, about 17 or 18 years ago; but the record of the suit is perhaps still there, and is referred to in my father's name, probably, in the federal court, as we were non-residents by, I believe, Jno. Dickerson; which suit said Elliot, against whom suit was brought, compromised with my father, and it was dismissed. Upon reflection, I think he had some claims there, which were thought to be forfeited by some negligence or mistake; and I think that, when I once went to Tennessee, upwards of 20 years ago, I was directed by my father to

make some inquiry about them: and, upon inquiry, the claims were abandoned; but I have now no distinct recollection of the nature of the claims, or whether or not they were originally in my father's name.

Question by same. Have you not been shown a bond which purports to have been signed by one Isaac Coulson, and made payable to Josiah Payne, with the names of James Donelson and William Bush signed as witnesses?

Answer. I think I have. I have been shown a *a* bond by N. W. Williams, about which my deposition has been taken in this suit before; which deposition is here referred. I recollect the bond purported to have been signed by Coulson, and William Bush's name was signed as a witness; and I think the other names mentioned in the question were in it, but do not recollect certainly.

Question by same. When that bond was shown you, had you no doubts whether it was your father's handwriting? and do you not, at this time, doubt whether it was his handwriting? and if you do not, is the whole body of the bond in his handwriting, together with the name, purporting to be his signature? and where did your father live on the first of January, 1787?

Answer. As to the signature of his name, as soon as I saw it, I had no doubt but that it was his handwriting, for I had seen a great deal of his writing from an early date until a short time before his death, and was very familiar with it. I have no doubt, at this time, but that the signature was written by him; I am, if any thing, more fully satisfied than when I gave the other deposition, as I have since examined many of his signatures to satisfy myself beyond a doubt. I think the whole body of the bond is in his handwriting; but of this, I am not so positive as I am of the signature, but I feel pretty well satisfied the whole is his writing. The first of January, 1787, my father lived in what is now Clark county, Kentucky. As I have before stated, he stayed at home but little.

Question by same. Is the first of January a usual season for hunting deer for skin?

Answer. I suppose it is not a good time for the deer for their skins; but the hunters frequently depend on bear, buffalo, &c. for meat; and they employed themselves in trapping beaver, as I have been told. I am no hunter myself.

Question by N. W. Williams, for the complainants. Did a dangerous time of Indians affect four father's taste for hunting?

I think not: it was said that he was too careless, and would hunt no matter what danger was at hand. And further this deponent saith not.

WILL. T. BUSH.

Deposition of Elkanah Bush—No. 1.

1st interegatory. Do you know the parties complainants, and defendant, in the title of these interrogatories?

1st answer to the first interrogatory. That he has no knowledge or acquaintance with the parties in the title of these interrogatories mentioned.

2d interrogatory. Do you know William Bush, James Donelson, and Isaac Coulson, or either of them? were they, or either of them at any, and at what time, in the State of Tennessee? and what business had they, or either of them, in that State at any time?

3d. Look upon the paper writing now produced and shown to you—whether or no are you by any, and by what, means acquainted with the name and character of said writing of the said James Donelson, Will. Bush,

and Isaac Coulson; and whether or no is the name of Isaac Coulson, James Donelson, and Will Bush, subscribed as *obligor* and witnesses to said writing? If the proper handwriting of the said Coulson, Donelson, and Bush, declare the truth of the several matters of this interrogatory inquired after, according to the best of your knowledge and belief.

2d and 3d answer to the 2d and 3d interrogatories. This deponent knows nothing either of the characters of said Donelson or Coulson, or of the character of their handwriting, having never seen them, or either of them. William Bush, whose name is subscribed as a witness to said writing shown to him, was this deponent's father; that his said father died 7 or 8 years ago, and this deponent administered on his estate; that he is well acquainted with his said father's handwriting, and is very certain that the signature, Will. Bush, signed as a witness to said writing now produced, is in the proper handwriting of his said father Will. Bush. This deponent also believes that the whole of the bond is in his handwriting. This deponent further states that he has no certain knowledge of his father ever having been in Tennessee, but from information of others, and what he has heard his father say; that he first moved from Virginia, where he married, to Holston; then to Kentucky, where he died; that Michael Stoner, about 38 or 40 years ago, married his father's niece; and, some time before, and about that time, they were partners in hunting, and, from information, were in Tennessee. The bond now produced, and referred to in this deposition, has my name written on the back of it, now written by myself, and is in the words and figures following, to wit:

"Know all men by these presents, that I, Isaac Colson, of the county of Davidson, and State of North Carolina, do oblige myself, my heirs, and assigns, to pay to Josiah Payne one hundred pounds Virginia currency, in payment for a certain bay stud horse I bought of him, within twelve months from the date hereof, with lawful interest; otherwise, in lieu thereof, I do oblige myself to make over all my right and interest of certain entry and warrant of land of 640 acres, lying on the north side of Cumberland river, on said river, about one or two miles above the mouth of the Caney fork, unto the said Josiah Payne, of county and State aforesaid, or his heirs and assigns; and if a deed or grant should issue to me before said entry or warrant should be transferred from me to said Payne, then, and in that case, I do hereby oblige myself to make a transfer deed of all my right, title, and interest of the aforesaid land, unto the aforesaid Josiah Payne, or his assigns, which deed and right, when made, is to be taken in full payment for the above hundred pounds and interest; and I do hereby oblige myself to warrant and defend said deed from me, my heirs and assigns, for ever, unto the said Payne and his heirs.

In witness whereof, I do hereby fix my hand and seal, this 2d day of January, 1787.

ISAAC COULSON, [L. S.]

Witness present:
JAMES DONELSON,
WM. BUSH.

Further this deponent saith not.

ELKANAH BUSH.

Deposition of Elkanah Bush—No. 2.

Question by defendant's agent. What was your father's name; and where was he born; in what year did he come to Kentucky; and who did he marry; and in what year? Please be particular as to dates.

Answer. My father's name was Wm. Bush, and, from the best information I have had, he was born in Virginia, and came to this section of country, now called Kentucky, in the year 1774 or 1775, and returned to Virginia, and married Francis Burrows, about the year 1778 or 1779, in the county of Orange.

Question by same. Do you know if your father ever was in the State of Tennessee? if he was, what year was it, and how long did he reside there?

Answer. I do not know that my father ever was in Tennessee; but he might have been.

Question by same. Was your father ever connected with a man of the name of Stoner, in trading, hunting, &c.? if he was, what year was it, and where did he reside at that time?

Answer. I have frequently heard my father say that him and Michael Stoner was on the Cumberland river a trapping, in partnership, in a very early date; but as to the year, I do not recollect.

Question by same. Have you any documents to show that your father was in what is now called Tennessee in the latter part of the year 1786 or beginning of the year 1787; or can you, by any means, ascertain where your father resided in those years?

Answer. I administered on my father's estate, and have his papers in my possession, but have not examined them fully to know whether I have or not; where he resided in those years I dont know; but, from information, he moved from Holston, to what is now called Clark county, Kentucky, about that time.

Question by same. Have you not been called upon to depose to the signature of a man by the name of William Bush, who signed as witness to a bond made by Isaac Coulson to Josiah Payne?

Answer. Some time since my deposition was taken at this house, in a suit in the circuit court of the United States for the district of Tennessee; but the parties names to the suit I do not recollect; but the object of that deposition was to prove the handwriting of William Bush, signed as witness to an instrument of writing; but the parties names to that instrument, I do not now recollect.

Question by same. At the time the bond was shown you, did you not have reasonable doubts that the signature of Will. Bush was not your father's handwriting? and do you not believe that that signature may be some other persons than your father's?

Answer. The instrument shown me, at that time, with the name of Will. Bush signed as witness to it, I compared it to other writing of my father's, about the same date, and it had every appearance of his handwriting.

Question by same. From your knowledge of your father's business, and his early habits of life, and the state of the country in the years 1786 and 1787, and the place of his residence, do you believe it possible that he was in the country now called Tennessee, and in the then settlements on Cumberland river?

Answer. As to my father's early habits of life, and the state of country at that time, and the possibility of his being in the settlements on Cumberland river at that time, of my own knowledge, I know nothing about.

Question by same. Is your mother living? if so, where does she reside?

Answer. My mother is living, and resides in this county.

Question by same. How long since the death of your father?

Answer. About ten years.

Question by same. Did you ever hear your father speak of any acquaintance in the Cumberland settlements? If so, what was their names?

Answer I do not recollect.

And further the deponent saith not.

ELKANAH BUSH.

Elkanah Bush's 3d Deposition.

Question by defendant. When did you administer on your father's estate; and have you any of his writing or signing in your possession?

Answer. I administered about ten years ago, and have papers in my possession of his writing and signing.

Question by same. Could you not, consistent with your duties as administrator, permit some instrument of writing drawn and signed by your father Wm. Bush to be enclosed in this deposition?

Answer. I have papers in my possession in his handwriting, and here enclose a bond, marked A, the body of which I believe is in his handwriting, and the receipt and signature on the back of said bond, I believe is in his handwriting also.

Question by same. Was your father accustomed to draw bonds, deeds, and mortgages?

Answer. He was in the habit of drawing bonds and deeds; but whether he ever drew a mortgage or not, I do not know.

Question by same. Cannot you, by conversing with the old settlers, friends and companions of your father, ascertain where your father was on the 2d day of January, 1787?

Answer. By late conversation with some of them, he must have been in the State of Kentucky.

And further the deponent saith not.

ELKANAH BUSH.

Wm. Elliott, Bond A.

I, William Elliott, have bargained and sold, and do for ever sell unto William Bush, him, his heirs and assigns, a certain tract or parcel of land, containing one thousand acres, a lying in North Carolina, on the south side of Cumberland river, about fifteen miles from the French lick, part of two pre-emptions obtained by Ralph and Sampson Wilson. I, William Elliott, bind myself, my heirs and assigns, to make a lawful deed, fee simple, to the said William Bush, his heirs or assigns, to the above mentioned tract one thousand acres of land, for value received of him by me: as witness my hand, this thirtieth day of January, one thousand seven hundred and eighty-seven.

Test:
ELI CLEVELAND,
JAMES BOGGS,
CORNELIUS RINGO.

WM. ELLIOTT, [SEAL.]

Received of the within bond, a bond of James Elliott, and also the one-half his part for the five hundred acres; I say received by me.

WM. BUSH.

June 3d day, 1799.

I say Samson Wilson, *peremption*.

Deposition of Edward Swanson—No. 3.

Question by Jeremiah Fields, agent for the defendant. Are you acquainted with the complainant or defendant in this cause?

Answer. I am not acquainted with either of the parties.

Question by same. When did you come to the place where Nashville now stands, and have you lived in the county of Williamson ever since you came there?

Answer. I came to the place where Nashville now is, in the month of March, 1779. I lived in Nashville, and the neighborhood of it, about fifteen years after I came there, and some of that time I lived, where I at present live, in Williamson county, Tennessee.

Question by the same. Were you acquainted with Mansker's creek, where Josiah Payne lived, in the year 1786 and 1787?

Answer. I was acquainted with the said creek, and with the place where Josiah Payne lived in those years, but do not recollect in what year Payne removed to said place, but believe he then lived there.

Question by the same. Did you know a man by the name of Michael Stoner? If you did, when did that acquaintance commence; with whom did he live; and what became of him?

Answer. My first acquaintance with Mr. Stoner was on New river, I believe, in the State of Virginia, and in the year 1778, in the fall; the next I saw of him was at *Manskow's lick*, in this county, in the fall of 1779; he remained until 1783. He went to a place called St. Fransway; and I received a letter from him dated the river St. Fransway, June 26th, 1783. In the winter 1784 or 1785, he returned, and was at my house; he shortly left my house, I supposed, for Kentucky, and I never saw him more; but heard of his being up Cumberland river, at a place then called Price's settlement.

Question by the same. Did not Michael Stoner go down the river Cumberland, in company with Joshua Howard, James Donelson, and others, for the avowed purpose of attacking and taking a Spanish garrison or settlement at the place called Ozack?

Answer. I have understood that he was along; and, before he returned, he wrote me the letter before spoken of.

Question by the same. Did not said party lie out, and keep themselves concealed for a considerable length of time after their return, and Stoner ever live publicly in the county afterwards?

Answer. They did keep themselves concealed for some time; and I never saw Stoner, but the one time before mentioned, afterwards.

Question by the same. Did you ever know Will. Bush? if you did, when did that acquaintance commence, where did he live, and what became of him?

Answer. I was acquainted with Wm. Bush in the fall of 1784. I never saw him any where but at Nashville; and expect he lived with his brother, Abner Bush. I think about the year 1786 or 87, I heard of his being killed by the Indians.

Question by the same. What kind of a man was Wm. Bush? Was he a man capable of transacting business, such as writing, drawing conveyances, bonds, and deeds, or was he ever engaged in surveying or locating lands?

Answer. I think he was not. He did not appear to me to be a man capable of transacting business of that kind. I feel confident he never did survey or make a location in his life.

Question by the same. Did you ever know any other man in this country, before the year 1792, named *William Bush*?

Answer. I never did. And further this deponent saith not.

EDWARD SWANSON.

1st Deposition of Andrew Ewing—No. 3.

Question by defendants' agent. Were you acquainted with Will. Bush? And, if so, tell all you know of him, when you became acquainted with him, and what was his pursuit, and what kind of a man he was.

Answer. I was acquainted with Will. Bush between the years 1782 and 1785—the exact date I cannot recollect. He resided at Freeland station (when out of the woods,) principally, which is now the residence of David McGurock. He came to the country from the Chickasaw nation—I cannot tell whether with Howard Marcy, James Donelson, Phil. Olston, Abner or William Hooper, or Turnbul, when he passed through with dressed skins, going to Virginia. He was a hunter, and, from information from himself and others, his principal hunting ground was south and west of Big Horpeth, towards the mouth of Duck river, and on the creeks called Brush, Turnbul, Head of Barton, Yellow, and Trace. He was intimate with me, and was said, by others, to be at times deranged. From my youth and limited acquaintance with men, I am not able to say positively as to the soundness of his mind; and now, by reflecting back, I believe he was, as people said, at times deranged. I do not know any thing about his qualifications to transact business of any kind except hunting. What became of him, I am not able to say. I believe he did reside at Gen. Robertson's, at the time Robertson moved to what then was called Robertson's lick, on Richland creek.

Question by the same. Were you acquainted with James Donelson?

Answer. I was acquainted with Jas Donelson, who came from the Chickasaw country, as before stated. I knew him to be a hunter; owing to my youth, I am not able to say whether he was a man of business or not. I always considered him a man of sense, compared with Will. Bush. Abner Bush, a brother of Will. Bush, was considered a man of business and cleverness, a hunter, and more respected than William Bush, by all their acquaintances. I often heard people say Wm. Bush was not to be compared in any with his brother Abner—not as a hunter, a man of sense, or of business of any kind. I never knew any other man of the name of William Bush in the State of Tennessee. I left Nashville on the 28th December, A D. 1788, and went to Danville, in the State of Kentucky, and there became acquainted with a Doctor Bush from New England. I am not certain of his name, but believe it was William. He wished me to study medicine with him; I read his books some time, perhaps two or three months. I started for New Orleans in March, 1789, and, the July following, met Bush in Natches. He went to Point Coupee, and married. I saw him for the last time in New Orleans in April or May, 1791. I am very certain he never was in Tennessee, from my intimacy with him, and conversing with him about his travels, and the way he came down the river Ohio. He had not resided long in Danville. From my passion for travelling, and the conversations I had with him about different parts of the world, had he ever resided in Tennessee, he certainly would have mentioned it. The last I heard of him, was going on board of a ship at New Orleans: since, he has not been heard of.

Question by complainants' agent. Were you ever acquainted with Will. Bush, who lives in Clark county, Ky.?

Answer. I never was, to the best of my knowledge.

Question by the same. Do you know if either of the Bushes, of whom you have spoken, was any ways related to Michael Stoner?

Answer. I do not. I did not know that Michael Stoner had any relation in Tennessee.

Question by the same. Might there not have been other Bushes in the State of Tennessee without you knowing it?

Answer. There might; if there were any other, I never knew or heard of them; and further this deponent saith not.

ANDREW EWING.

The 1st Deposition of Jas. Mulhenin—No. 4.

The questions to Mulhenin and Buchanan are contained on pages 49, 50, 51.

To the 1st interrogatory hereto annexed, he answers as follows: I did know a man of the name of James Donelson, and one of the name of Will. Bush, who came here, I think in the year 1782 or 1783, and was said they came from the Chickasaw nation. I believed they lived, when not in the woods, about Freeland station, followed hunting or trapping as an occupation. If either of them could write, I did not know it, as I believe I never saw any writing done by either of them. They lived some time in the country, how long I cannot say; and, report says, were killed by the Indians.

To the 2d interrogatory, he answers as follows: It was generally thought that the people who came here from Natchez, or the Indian nation, were tories; and, on that account, their characters did not stand very high. I remember there was a party who went from here implicated for robbing boats, and doing injury to the Spaniards; among which was old Phil. Alston, and, I rather believe, Donelson and Bush was said to be part of the company; but do not remember it so well as to be positive about it.

To the 3d interrogatory, he answers as follows: I have no doubt but the Governor of North Carolina issued a proclamation for apprehending the party concerned in robbing the boats, as I know one of my acquaintances was apprehended, and lay some time in Nashville jail on that account. The answer to the above will show my opinion with respect to Donelson and Bush.

To the 4th interrogatory, he answers as follows: I was acquainted with Michael Stoner near the the first settlement of the country. I do not know his particular place of residence; he left the country at an early day. I cannot be particular as to the date.

To the 5th interrogatory, he answers as follows: I never did know of any man of the name of William Bush in partnership with Michael Stoner, in hunting, trapping, &c.; nor do I recollect any other William Bush in the country but the one before named with James Donelson, and never heard him speak of any such man.

To the 6th interrogatory, he answers as follows: A party had been in this country locating land, or making improvements to locate, by the year, before I came here, among whom were William Johnston, Thomas Spencer, John Holliday, and some others; but Major Buchanan and myself were among the first surveyors and locators after the land office was opened. I believe

I was pretty generally acquainted with all that followed the locating business, and do not remember, at any time, a man of the name of William Bush following that business.

To the 7th interrogatory, he answers as follows: I have no recollection of hearing Michael Stoner implicated for attacking the Spanish post on Arkansas, nor can I be particular when he left this country, but know it was at pretty early date.

To the 8th interrogatory, he answers as follows: The usual time of killing deer to take their skins to market, is when the deer are red and blue, which is in the spring, summer, and fall: late in the winter they turn grey, and their skin worth little.

To the 9th interrogatory, he answers as follows: The Indians were troublesome from the first spring the country was settled, which was 1780, until the Uichagack campaign, which I think was in the year 1793. The Indian campaign against the country, the time Buchanan's station was attacked, was, I think, in 1792; the Coldwater expedition was, as well as I remember, a year, or perhaps two, before the attack at Buchanan's. I remember the Indians burning Mayfield's station, and driving the people, but cannot be particular as to the time it was done.

To the 10th interrogatory, he answers as follows: I do not think there was any person in the bounds of my acquaintance, who made a business of trapping and hunting in the year 1787. The Indians, I know, were at that time very troublesome, nor am I acquainted with any person from there until this time, who followed that as a business.

The witness refers to his answer to the 5th interrogatory, for his answer to this.

To the 12th interrogatory, he answers as follows: Bush and Donelson, and all other perrons who came from the Indian nation or lower country, were suspected to be tories or refugees from justice.

Bush was a dissipated man, given to intemperance; what made me particularly notice him, was one evening at old Mr. Boyd's, I heard him trying to persuade the people he was the Savior of mankind; he was intoxicated, and appeared to me in a state of derangement. Donelson I know nothing about, but what I have already stated.

JAMES MULHENIN.

John Buchannan, 1st Deposition.

John Buchannan, being duly sworn, deposeth and saith:

To the 1st interrogatory, of the defendant, he answers as follows: I was acquainted somewhat with a man named James Donelson, and with a man named William Bush. At the time I knew them, they lived at what was called Freeland's station. I have heard they were killed by the Indians, but at what time I do not now recollect. I dont know whether they could write or not, but think Donelson could not. I have heard it said they followed hunting.

To the 2d interrogatory, he answers as follows: I have heard it reported of them, that they were implicated in having been concerned in robbing a boat or boats, and that they were also concerned in an attack on a Spanish fort or garrison on the Arkansas.

To the 3d interrogatory, he answers as follows: I have no distinct recollection on this subject. I have a recollection of having heard there was some

edict out against them, but cant state any thing particularly about them lying out.

To the 4th interrogatory, he answers as follows: I was acquainted with one Michael Stoner in the first settlement of this country, say about the year 1780. He lived in the spring of that year on Stone's river, at the Clover Bottom. In the year 1783, he was still in this country, but how long after I dont now recollect.

To the 5th interrogatory, he answers as follows: I never knew of any man of the name of William Bush, who was in partnership with said Stoner in hunting and trapping. Stoner told me, when him and myself were out in the year 1780, that, before the settlement of the country, himself and Will. Bush had been out hunting and trapping together.

To the 6th interrogatory, he answers as follows: I was among the first of the old locators and surveyors here after the office opened for that purpose. I believe I was acquainted with all who followed that business from 1784 to 1790. I have no recollection of any man of the name of Will. Bush following that business.

To the 7th interrogatory, he answers as follows: I have understood Michael Stoner was one of those implicated in attacking the Spanish fort or garrison on the Arkansas. I think he left the country soon afterwards, but when I cannot say.

To the 8th interrogatory, he answers as follows: During the spring, summer, and fall, is the usual time of killing deer for their skins. They are worth but little for market, if killed in the winter months, except in December; and they dont begin to get good until about the first April.

To the 9th interrogatory, he answers as follows: They were very troublesome from the first of the year 1787 until the year 1794. I recollect the Coldwater expedition, and the Indian expedition against Cumberland, and also their burning Mayfield's station, but the year which they happened I cant now remember. The people in the country, after that time, were all forted on this side of the river; and I believe every where else.

To the 10th interrogatory, he answers as follows: I have no knowledge of any person who made a business of trapping and hunting deer for their skins for a livelihood, in this country, in the year 1787 down to this time.

To the 11th interrogatory, he answers as follows: I refer to my answer to the 5th interrogatory as my answer to this.

To the 12th interrogatory, he answers as follows: I have now no recollection in what light their characters were then viewed, but am inclined to the belief they were not looked upon favorably.

JOHN BUCHANNAN.

The following interrogatories will be put to John Buchanan and James Mulhenin, of Davidson county, on the part of John Coulson, in a suit now depending in the Circuit Court of the United States for the District of West Tennessee, holden in the town of Nashville, wherein Jame and Isaac Walton are complainants, and the said John Coulson is defendant, and untried:

Questions to John Buchanan and James Mulhenin.

Question 1st by defendant. Did you not know, or were you not ever acquainted with one James Donelson and Will. Bush? and if you were,

where did they live, and what has become of them; and could they write, and what occupation did they follow?

Question 2d by same. What sort of characters were they? and were they not, one or both of them, implicated for having been concerned in robbing boats going and returning from New Orleans, and also of attacking a Spanish garrison on the river Ozack, now called the Arkansas; and when was it?

Question 3d by same. Were they not outlawed by then Governor of North Carolina; and did they not lie out or keep concealed in consequence of the Governor's proclamation, until it was rescinded?

Question 4 by same. Were you not acquainted with Michael Stoner in the first settlement of the Cumberland? How long did he remain about Nashville, or in the country; and where did he live?

Question 5 by same. Did you ever know or hear of any man by the name of William Bush, who was in partnership with said Stoner in hunting and trapping, since the commencement of the settlement on Cumberland, about Nashville? If you were, where did he live?

Question 6th by same. Were you not amongst the first of the old locators and surveyors in what is now called West Tennessee? And were you not well acquainted with all the old locators and surveyors of the military district, from the year 1784 up to the year 1790? If you are, did you ever hear of a man by the name of William Bush following that business?

Question 7 by same. Was not Michael Stoner one of the party who was implicated in attacking the Spanish post or garrison on the Arkansas; and did he not leave this country soon afterwards, and when was it? Tell all you know on this subject.

Question 8th by same. When is the usual time of killing deer for their skins to make market of them; and are they good for any thing from about the first of January until they turn red in the spring or summer?

Question 9th by same. Were the Indians not very troublesome from the first of the year 1787 until the year 1794; and what year was the Coldwater expedition, and the Indian expedition against Cumberland, the same year; and did they not burn Mayfield's station the same year, and drive all the few people, who then lived in the country, into forts or places of defence?

Question 10th by same. Was there any person or persons known to you who made a business of trapping and hunting deer for their skins for a *livelyhood*, in this country, in the year 1787 down to this time? If there was, who were they?

Question 11th by same. From your intimate acquaintance with Michael Stoner, do you believe any such man as Will. Bush was in any part of this country with him since the commencement of its first settlement in the year 1779; or did you ever hear him mention any such person being with him after you became acquainted with him?

Question 12th by same. Were they not both, Bush and Donelson, considered as old tories or refugees from justice, or what sort of characters were they? State all you know.

The 1st Deposition of R. Weakly—No. 6.

Question 1st by defendant. Were you not a locator and surveyor in this country in the year 1786 or 1787; and were you not generally acquainted with all the old locators and surveyors who followed that business in this country about that time?

1st answer. I was a surveyor and locator in 1786 and 1787, and I believe I was acquainted with all the old locators and surveyors at that time, who followed the business in this country.

Question 2d by same. Did you ever know a man of the name of William Bush, who followed locating or surveying land in this country about the years 1786 and 1787, or at any other time? and if you did, where did he live?

2d answer. I was acquainted with a man by the name of William Bush, but never knew him as a surveyor; but have understood that him and his brother Abner Bush, had been old hunters on the Mississippi and its waters previous to the first settlement of this country, or about that time; and that he, William Bush and Abner his brother, had given Gen. James Robertson the names of the water courses emptying into Mississippi west of Tennessee river, within the limits of this State, so as to enable said Robertson to make entries in that section of country in 1783, in John Armstrong's office; and in the year 1785, both the Bushes went in company with Gen. James Robertson and others, and did survey a number of said entries, as I was told and believed, as I saw them set out in company, to go down the river, in 1785; and I believe both the Bushes lived at Robertson's station or Richland creek, in Davidson county, in the year 1785.

Question 3d by same. Did not the most of the inhabitants lived in this country, about that time, reside in stations, and generally known to each other?

3d Answer. I believe they did; and I believe they were generally known to each other.

Question 4th by same. Was not the Indians very troublesome about that time, and when was the Coldwater expedition, and was not the Indian expedition against Cumberland the same year?

4th answer. The Indians were very troublesome in 1787; and the Coldwater expedition was that year; and one of the Indian expeditions against the Cumberland settlement was the same year.

Question 5th by same. What was the currency of the country in the years 1786 and 1787; and what was the difference between it and specie?

5th answer. The currency of the country was North Carolina bills, purporting to be two dollars and a half, equal twenty shillings to the pound, as the currency was pounds, shillings, and pence; and said bills depreciated, so that one silver dollar was equal to sixteen shillings of said bills.

Question 6th by same. Did you ever know one James Donelson or Michael Stoner in this country? and if you did, when was it, and what became of them, and was their occupation and character? Tell all you know on that subject. And could James Donelson write?

6th answer. I was acquainted with James Donelson in the year 1786. He then lived at General James Robertson's station, on Richland creek, in this county. Some time afterwards, report said he was killed by the Indians at or near the mouth of Cumberland river: Donelson was a hunter, as I understood; he was a man that would tell extravagant stories—what he had seen, and had done, when out hunting: whether he could write or not, I cannot say; I have no recollection that I ever saw him write. As to Michael Stoner, I do not believe he ever resided in this county any length of time, if at all, after I became a settler, which was in November, 1784. I believe I saw him once in Nashville, many years since.

Question 7th by same. Was not Henry Bradford a good scribe, and well acquainted with the forms of drawing bonds, and such other instruments of

writing as were mostly used in the years 1786 and 1787, and about that time?

7th answer. Shortly after I came to the country, I became acquainted with Henry Bradford, and became well acquainted with him: he wrote a good hand, and I believe was acquainted with the art of surveying. I think he was as well qualified to draw bonds for conveyance of lands as the most of us in 1786 or 1787.

Question 8th by same. Was not Henry Bradford, a brother-in-law to Josiah Payne, and did he not live at the same station with him in the years 1786 and 1787?

8th answer. I always understood he was the brother in-law of Josiah Payne, and did live in the same station, or near together, in the years 1786 and 1787, to the best of my recollection.

R. WEAKLY.

1st Deposition of William Martin.—No. 7.

Question by defendant. Did you ever live with William Bush? If you did, in what year?

Answer. I commenced living with him in December, of the year 1786, and lived with him twelve months at a certain price by the year, and was not absent more than three days at any one time during the year?

Question by same. Was William Bush at home generally during the time you there lived with him?

Answer. He was.

Question by same. Was William Bush at home in December, 1786, and January, 1787?

Answer. I believe he was, certainly.

Question by same. Did you know of William Bush's going to Nashville, or the Cumberland settlement, in Tennessee, during the time you lived with him?

Answer. I do not; nor I dont believe he did.

Question by same. Did you ever know of William Bush's going to Nashville or any part of Tennessee; and did you live near him for many years?

Answer. I never knew of his going to Tennessee in my life; and I lived within a mile of him from the first year I lived with him until his death; and further this deponent saith not.

WILLIAM MARTIN.

The 1st Deposition of Lawrence Thompson.—No. 8.

Question by defendant. How long have you been living in Kentucky?

Answer. Forty-six years, with the exception of three years and a few months I lived in the State of Tennessee.

Question by same. In what year, and when did your acquaintance commence with William Bush?

Answer. In Kentucky, in the year 1781.

Question by same. How far did you live from Wm. Bush in Kentucky?

Answer. Not more than three miles.

Question by same. Were you *at* terms of great intimacy with Wil. Bush, and one of his common associates whilst you lived in Kentucky?

Answer. I was.

Question by same. Do you recollect, during your acquaintance with William Bush, that he ever went to Tennessee? and if he did, in what year?

Answer. I never knew of his going to Tennessee.

Question by same. In what year did you remove to Tennessee, and in what county did you settle?

Answer. In the year 1786, in the month of October or November, and settled in Sumner county.

Question by same. Did you live during your residence in Sumner county, Tennessee, near any public road or roads? If so, by what names were they called?

Answer. I lived within one mile of the road leading from Tennessee to Kentucky, and within one-half mile of the road leading from Col. Mansers, to Sumner court-house.

Question by same. How far did you live from Nashville and from Gallatin?

Answer. Twelve miles from each place, so called at that time.

Q. by same. Did you live at the same place the whole time of your residence in Tennessee?

Answer. I did.

Q. by same. How long did you live in Tennessee?

Answer. Three years and some months.

Question by same. Were you acquainted with Isaac Coulson?

Answer. I did not know him.

Q. by same. Did you know Josiah Payne, who moved from Guilford county, North Carolina, and settled in Sumner county, Tennessee; and how far did you live from him, and were your family and his in the habit of visiting of each other?

Answer. I knew him, but do not know whether he came from Guilford county, but know that he came from North Carolina, and I lived three miles from him, and we saw each other frequently.

Q. by same. Did you ever know or hear of Josiah Payne going to Kentucky during your acquaintance with him?

Answer. I did not.

Question by same. Was William Bush in Tennessee in December, 1786, or January, 1787?

Answer. Not to my knowledge.

Question by same. Do you not believe if Will. Bush had been 20, 30, or 40 miles of you, that, from the situation of your and his affairs at that time, and the great intimacy that had existed between him and yourself, he would most certainly have come to see you?

Answer. I believe he would.

Q. by same. Did you hear from William Bush frequently, either by letter or travellers passing your residence in Tennessee?

Answer. I heard from him frequently. And further this deponent saith not.

LAWRENCE THOMPSON.

The 1st Deposition of Achilles Eubanks—No. 8.

Question by defendant. Where did your acquaintance with William Bush commence, and where did you reside?

Answer. The first time I ever say him was in 1778 or '79, in Virginia; and I at that time lived in Goochland county, Virginia.

Question by same. What year did you move to Kentucky?

Answer. I think in June, 1786.

Question by same. How far did you live from Will. Bush in the years 1786, '87, and '88?

Answer. Not a half mile in either of the three years after I moved to Kentucky.

Question by same. Were you on terms of great intimacy with Wm. Bush, and one of his common associates?

Answer. I was perhaps as much so as any other man in the State, and perhaps more so.

Question by same. Was William Bush about home, or in the State of Kentucky, on the first of January, 1787, or the last of December, 1786?

Answer. He was about home generally, and not out of the State, to my knowledge, in either of the years: had he have been, I certainly should have known it, as we were very close neighbors.

Question by same. What was William Bush's pursuits in life? was he trader, farmer, hunter, surveyor, or merchant?

Answer. He at times followed all except merchandizing.

Question by same. Was William Bush a man capable and accustomed to draw instruments of writing, such as deeds, mortgages, and bonds?

Answer. He was.

Question by same. Did you ever know any connexion to exist between Wm. Bush and Michael Stoner? If so, where did they reside, and in what year? and what way were they connected?

Answer. I have understood from them both, they were connected in land business; and they both lived in the same neighborhood from 1786 until 1790, at least.

Question by same. Did you ever know Will. Bush to go to Nashville or the Cumberland settlement, near Nashville, in Tennessee? If so, in *year* or *years*?

Answer. I never did know of his going there.

Question by same. Did Eli Cleaveland, James Boggs, Cornelius Ringo, and William Elliot, live in Kentucky in the year of 1787?

Answer. I believe they did, and in the same neighborhood. And further this deponent saith not.

ACHILLES EUBANK.

The 1st Deposition of Jeremiah Coulson.—No. 9.

Question. Did you ever hear Josiah Payne agreee to pay the taxes on a tract of land belonging to the heirs of Isaac Coulson, lay in Tennessee, on Cumberland river?

Answer. I did hear Josiah Payne agree with Jacob Coulson to pay the taxes on said land, and take care of it for the children of Isaac Coulson; and the said Josiah Payne called upon me to bear witness to the agreement.

Question. Did you ever know Josiah Payne to receive any money or property from the widow of Isaac Coulson on account of a debt due him from Isaac Coulson?

Answer. I heard Josiah Payne say he received a *horse beast* from the widow of Isaac Coulson, and see the same in his possession.

Question. What was the worth of the horse?

Answer. About fifty dollars at the time he received it.

Question. What heirs of Isaac Coulson are living?
Answer. John Coulson, Priscilla Farmer, Priscilla Coulson, that was.
Question. What year was Priscilla Coulson married to William Farmer?
Answer. In February, 1808.
Question. Do you know the age of the children?
Answer. I *cant* recollect, at this time, the age of the children.
Question. Have the heirs always resided in the State of Virginia?
Answer. They have always made their residence in the State of Virginia.

JEREMIAH COULSON. [SEAL.]

The 1st Deposition of Susanna Farmer.

This deponent saith she is not interested, nor will she be gainer or loser in the event of the suits or either of them; that, about the years 1793 or 1794, Josiah Payne called upon her, the deponent, for a sum of money said to be due him from her deceased husband Isaac Coulson, or relinquish her right to a certain tract of land lying in the State of Tennessee, granted by the State of North Carolina to Isaac Coulson; that she, the deponent, went to court to relinquish her claim to said land in favor of said Payne, and, while at court, the said Payne informed her that she could not do it; that, at another time, the said Josiah Payne called upon her, the deponent, for pay, and said he ought to have something, as he would have to wait until the children become of age; and that the deponent let Payne *have* a horse beast of the value of fifteen pounds Virginia currency; and the deponent often heard her husband Isaac Coulson say that he was to let said Jos. Payne have a negro, between the age of 6 and 12 years old, and that there was not any writings between him and Josiah Payne; and that said Payne said to the deponent, at the time he received the horse from her, that he should not care so much about it, but there was not the scrape of a pen between him and Isaac Coulson. The deponent further saith that John Coulson, Priscilla Farmer, Priscilla Coulson that was, are the only surviving heirs of Isaac Coulson; that John Coulson was born on the 8th March, 1788, and that Priscilla Coulson was born the 15th of July, 1789; and the deponent further saith, that Isaac Coulson returned from the western country, in June, 1787, and that she, the deponent, was married to said Isaac Coulson shortly after his return; and that Isaac Coulson continued to reside in Grayson county until his death, and that Isaac Coulson died about April, 1791.

Question. Was either of the heirs ever in North Carolina or Tennessee?
Answer. John Coulson went to the State of Tennessee in the year 1806, and returned in a few weeks, and neither of the heirs has never been in either of the States of Tennessee or North Carolina since.

her
SUSANNA × FARMER. [SEAL.]
mark.

The 1st Deposition of Greenwood Payne.—No. 11.

1st interrogatory. Do you know the parties complainants and defendant, in the title of these interrogatories named, or any or which of them?
1st answer to the first interrogatory. That he merely knows the complainants when he sees them; complainants in the title of this *interrogatories*, but not acquainted with the defendant, John Coulson.

2d interrogatory. On the trial law of the ejectment, were you not examined as a witness, by consent of parties?

2d answer to the 2d interrogatory. That he will more fully answer this interrogatory, in his answer to the 7th, 8th, and 9th interrogatories hereafter to be administered to him.

3d interrogatory. Do you know Sampson Williams, William Walton, the complainants' ancestor Josiah Payne, and Sarah his wife, Isaac Coulson, Benjamin Johns, Armstead Stubblefield, and William Dillon?

3d answer to the 3d interrogatory. This deponent says he was well acquainted with William Walton, Josiah Payne, and Sarah his wife, and Benjamin Johns, in their life-times; he is now acquainted with Sampson Williams and Armstead Stubblefield; William Dillon, he never knew.

4th interrogatory. When did you first see the bond from Isaac Coulson to Josiah Payne for the land in dispute? how often have you seen the same, and in whose possession?

4th answer to the 4th interrogatory. This deponent says he has frequently seen the bond for the land in dispute, but how often he is unable to say. This deponent may have only heard, and not seen the bond. About the year 1804, when the election for the place of holding the court in Smith county took place, he knows, at that time, Josiah Payne expressed great interest in that election, on account of his claim to this land lying near that place. This deponent remembers the bond as found by Francis Hall, esq., attorney at law, in the fall of 1805, after the death of Josiah Payne, from among the papers of said Josiah. This deponent remembers, after the land was sold for taxes in the year 1806, a Mr. Dillon, a relation and friend to the Coulsons, determined to prevent Payne's getting a title in that way by the sales. Dillon threatened to inform the Coulson's in Virginia, on the sale of the land, in order that it might be redeemed. About this time the Payne's determined, in the event that Coulson redeemed the land, to rely on the bond from Coulson for the land; and *the* this deponent remembers giving the bond himself to Armstead Stubblefield, who was then a pretended friend to the family of Paynes, in order that he might discover in what way the bond was to be *proved* and established; and that Stubblefield kept the bond a considerable time for that purpose. This deponent, about the time of bringing the ejectment against Walton and his tenants in 1814, perhaps he lived on the same plantation with Sarah Payne, widow of said Josiah, when Col. Walton came there for the bond. Mrs. Payne then sent for this deponent, and he searched for and found the bond among the papers of Josiah Payne, and gave the same to said Walton. The object to be effected by the production of the bond, was a dismission of the ejectment: that Sampson Williams, who claimed an interest in, and a control over the said suit, had promised, on a production of the bond, to dismiss the suit, as this deponent then *understood.* The federal court was then sitting in Nashville, and this deponent came with Walton to Nashville to see about the matter. Sampson Williams then, after seeing the bond, as I understood from him, told this deponent that he had been under a mistake, and that the suit should be dismissed. He then went to John Dickinson, the plaintiff's lawyer, who said the same, that the suit would be dismissed. Sampson Williams also said that he was interested in one-third of the land, and, for his part, was willing to dismiss the suit. I think he said one Fields had one third, and Armstead Stubblefield had the other third. This deponent remembers then, when he gave the bond to Walton, that it was fair on its face; there were on the bond

no erasures, obliterations, retracings of names with a pen, and nothing of that sort.

5th interrogatory. What conversation did you ever have with S. Williams, the action at law, the bond, and about dismissing the suit?

5th answer to the 5th interrogatory. The answer to this is contained in the answer to the 4th and last interrogatory.

6th interrogatory. If Benjamin Johnes was examined as a witness on the trial, *on the trial* at law, what did he then say? and is the said Benjamin Johnes now dead, according to the best of your knowledge and belief?

6th answer to the 6th interrogatory. The deponent says that he has heard, and believes it to be true, that said Benjamin Johnes is dead; that he was examined on the trial at law, in this deponent *presents*. This deponent has heard said Johns tell his story in this matter about the land so often, that he cannot well, at this time, distinguish his evidence on said trial from what he has often heard him say in private conversation. He does not, at this time, remember, that, at the time of the trial, during the evidence of said Johns, any material variance in his testimony then before the court, and what he had repeatedly heard said Benjamin say out of court before that time, except some of the lawyers bothering and confusing him on the authority he had from Payne, when in Virginia, to receive the title from the representatives of Isaac Coulson. In this, or about the time this part of his testimony, old Mr. Johns seemed more confused, and less clear, than he had been to me on former occasions. Johns was hard of hearing, and at times a little stubborn: at length he refused to answer on the points arising out of this question. The old man Johns has often told me, and I think he gave the following circumstances in testimony, that, being sent or requested, he went to Grayson county, Virginia, after a title for the land; that Payne had told him he would find the title ready made for him; if not mistaken, he said in the year 1797 or 1798, that they, Mrs. Colson, Jacob Colson, and Benjamin Johns, went to court to have the title made, and were about two days engaged in that business. They were, finally, disappointed in having the title made. Mr. Coulson or Jacob Coulson, one or both of them, told Johns, and then told the court, that Isaac Coulson, on his death bed, had requested them to make the title to Josiah Payne, and put him to no trouble about the matter; but the court refused, and told them they had no power to make the title; and so that title was not made, and Johns came away without it. Johns said that Payne and Walton exchanged land on account of a debt due from Payne to Johns. He (Johns) said that Isaac Coulson's widow said she had let Josiah Payne have a mare as directed by her husband on his death bed; that, on his (Johns) return, Payne said he would have the land sold for taxes, and get a title in that way, and no thanks to them; and that Walton had the possession of the land ever since. That the land in dispute, ever since about that time, went by the name of the Payne track.

7th. If Armstead Stubblefield was examined on said trial at law, what did he then say?

8th. What did you then say, when on your examination on said trial at law?

9th. Tell all you know material to the matters in dispute between the parties.

Answer to the 2d, 7th, 8th, and 9th interrogatories. This deponent answers and says, that he was examined on the trial of the ejectment at law, by the consent of both parties, plaintiff and defendant; that Armstead

Stubblefield was examined, and that, on the trial, swore that the said Armstead, in the life time of said Josiah Payne, he, the said Josiah, intoxicated, staid all night at his father's, and next morning, at his request, rode with said Payne to Carthage, and, on the way, stated to said Stubblefield that he would do as others had done before, have the land sold for taxes, and buy it himself; that he had paid the taxes long enough. Being asked by Mr. Whiteside, if said Payne did not then say he had an equitable title to the land? he answered no. He was then asked if he never saw this bond, Whiteside showing him the bond? he said no. He was then asked if this man, pointing to Greenwood Payne, had never shown him the bond? he said no. Stubblefield said something about the possession of the land, which is not at this time remembered. This deponent was then examined by both parties by consent, and swore that, during the time allowed for the redemption of the land, and before the time was out, that this deponent gave the bond in question to said Armstead, who then pretended great friendship for the family, and took the bond, and kept it for two or three months, in order to have it proved, as stated in his answer to the fourth interrogatory. This deponent also knows, but believes he did not then state it on the trial, that said Stubblefield was frequently at Mrs. Payne's, passing backwards and forwards, either to save expenses or to court the widow, and pretended great friendship for the family. Will. Payne, son-in-law of said Josiah Payne, gave a bond to Miss , for fifty acres of land, and said Armstead, as assignee of said bond, was promised 100 acres of land in dispute, including his ferry on Cumberland river. Said William Payne afterwards agreed with this deponent that, in the event this deponent would lift that bond from Armstead, that he would transfer all his right to the estate of his said father-in-law, Jos. Payne, in the year 1814. This deponent applied to said Stubblefield, who was then in the prison bounds at Carthage, for said bond, telling said Stubblefield that, as Mrs. Payne had sold the land to Col. Walton, he could not get that land from Wm. Payne's bond. Stubblefield then replied that there was still a way to get it; that he knew a way to get it.

10th interrogatory. Do you or do you not remember seeing in the possession of George Payne, a paper said to have been executed by the heir of Coulson, the defendant, his mother, Susannah Farmer, and Jacob Coulson, his guardian? At what time did you see that paper, and the contents of that paper, and what has become of it?

10th answer to the tenth interrogatory. This deponent remembers that George Payne, son and administrator of said Josiah Payne, went to Grayson county, Virginia, in the year 1806, about the land in dispute, the sale for taxes, and a deed to be made by the sheriff, &c. &c. This deponent remembers, on the return of said George from Virginia, to have seen in his possession a paper writing purporting to be a release of all claim to the land from the representatives of Isaac Coulson. It stipulated, with a penalty of 500 or 1000 dollars not to redeem the land sold for taxes, or in any way prevent a title. The seeing of this bond or release, and the conversation with George Payne on the subject of it, took place, as this deponent believes, just before the end of the time when the land was to have been redeemed for the taxes in 1813. Said George Payne was drowned in Lake Ponchartrain, and his papers remained in the possession of his mother, Sarah Payne. The release or bond has been searched for, and cannot be found among his papers. Whether it was lost with the person of said George, at the time of his death, or taken from his papers by design of some person interested, this

deponent cannot tell. The papers were left free for any person who wished to see them. The Pillows frequently examined them. Armstead Stubblefield had access to said papers from the year 1807 till the time of said George's death, and frequently examined them. Pillow and Stubblefield were intimate in some of their land matters. Gideon Pillow, who married Josiah Payne's daughter, was at times displeased with the sale of the land to Walton.

11th interrogatory. Do you or do you not remember seeing among the papers of Josiah Payne, after his death, some instrument of writing said to have been executed by the mother of the defendant to Josiah Payne? State the contents of that paper, by whom witnessed, and contents of that paper.

11th answer to the 11th interrogatory. This deponent answers and says, there was among the papers of said Josiah Payne, before and after his death, a bond dated 1793, witnessed by Jacob Coulson and Valentine Dotson, given by widow of said Isaac Coulson to said Josiah Payne. By virtue of this and other papers, I understood said Payne took possession of the land: the paper is not now produced. I am told it was taken to Virginia to be proved by the subscribing witnesses. It was a bond, with a penalty of about 100 pounds Virginia money, conditioned to convey to said Payne a right to said land in dispute, to take possession, and cultivate the same for his own use.

12th interrogatory. Did you not find, at some time, among the papers of said Josiah Payne, other papers in relation to the matters in dispute between the parties?

12th answer to the 12th interrogatory. This deponent answers, that the bond referred to is now before me, and is in these words: "for and in consideration of $300 to me in hand paid by Wm. Walton, of Smith county, and State of Tennessee, I bind myself, my heirs, &c., to make out and convey unto said Walton, 73 acres, 3 roods, and 13 poles of land, on Cumberland river, beginning at said Walton's upper corner, on the river, running up, and off for compliment; to which payment, well and truly to be made, I bind myself, my heirs, &c., jointly and severally; as witness my hand and seal, the 1st day of May, 1800. It is to be understood that the conveyance of said land is to be made in twelve months from this date.

Test:

JOSIAH PAYNE, [SEAL.]

B. JOHNS,
THOMAS HICKMAN."

The Endorsement.

The endorsement on said writing is in these words: "for value received, I assign all my right, title, and interest of the within bond to Sarah Payne, who is not to have recourse to me, should she fail in getting any thing for said obligation. May the 23d, 1807.

Test:

W. WALTON.

JNO. H. BOWEN,
ISAAC WALTON."

In further answer to this interrogatory, this deponent says said bond is signed in the *known* handwriting of said Josiah Payne. This bond, thus assigned, grew out of the following circumstances: Benj. Johns claimed 150 acres of land from Josiah Payne, to include the spring where Johns settled;

that, when the land came to be surveyed, it did not include the spring; and to advance the agreement between Payne and Johns, Walton agreed with Payne to exchange the *lands* in the bond for about 100 acres, so as to include the spring. The estate of Josiah Payne was involved, and Mrs. Payne was advised, by her friends, to buy the land on Caney Fork in her own name, at the tax sale, and sell and discharge her husband's debt, and, by that means save the negroes; that, if the Coulson land *were* purchased at tax sale by the heirs, it would not be used in that way. Accordingly, the land was purchased by Mrs. Payne at the sale for taxes in the year 1806; and, from time to time, part was sold to Col. Walton and his sons, as best suited the circumstances of the estate of Jos. Payne. This deponent believes that bond for 72 acres was given to Walton for the exchange of land as above, and assigned to Mrs. Payne, in consideration of the deed to Jas. Walton, to operate, if necessary, on such of the heirs as might object to the arrangement with Col. Walton. *There* was the sheriff deed of the 3d of May, 1807, to Sarah Payne; a deed to James Walton, 136 acres, dated the 23 of May, 1807; the assignment of this bond the 23d May, 1807, to Mrs. Payne. The last arrangement made with Col. Walton for the balance of this land on Caney Fork, was in and about the year 1814. The parties met at Isaac Walton's, on Manscow's creek. Col. Walton, Sarah Payne, the most of the heirs of Payne that were of age, being consulted by Mrs. Payne, agreed that she might sell to Walton: accordingly it was sold for about five dollars per acre. About this time, I understood that one Fields offered to Mrs. Payne more money for the land than she was to get from Walton; and, on account of the friendly manner the Payne family had been treated by Walton, Mrs. Payne chose rather to sell the land to Col. Walton. Further this deponent saith not.

GREENWOOD PAYNE.

The 1st Deposition of Matthew Payne.—No. 11.

1st interrogatory. Do you know the parties, complainants and defendant, in the title of these interrogatories?

2d interrogatory. Did you know William Bush and James Donelson? were they alive in the month of January, 1787?

Answer to the 1st and 2d interrogatories. That he is well acquainted with Isaac Walton and James Walton, sons of Col. Wm. Walton, deceased. He is unacquainted with the defendant John Coulson; he is also well acquainted with James Donelson and William Bush: they were alive in January, 1787. Donelson and Bush were frequently together at Josiah Payne's: they sometimes lived with Gen. Robertson. William was the brother-in-law of Michael Stoner, as he understood, and had the entry of his, Stoner's, pre-emption, made in his, Bush's, name, as he, the deponent, then understood; that this deponent purchased that land of Stoner, and took Bush's bond for the title, as Stoner owned the land. This land was afterwards sold to "*Gen. Andrew Jackson*" in the year 1808; that he made a purchase of Stoner and Bush, in the year 1795, and lived on it 13 or 14 years, and then sold it to Andrew Jackson Tate Coryell in 1808.

3d interrogatory. Do you not remember that you, Isaac Coulson, and Josiah Payne, took, in Jan. 1786, and the laugh you had on Coulson, who gave the *meat* he set out with to his son, after he had accustomed himself to live on meat alone? that Coulson refused no go unless you would agree to carry meat for his accommodation?

3d answer to the 3d interrogatory. This deponent remembers the meat as mentioned in said 3d interrogatory. He knew said Coulson well, he was his cousin; he made two crops, one with George, the other with Josiah Payne, in 1786 and 1787; that said Coulson was very awkward in the woods. We laughed at him constantly; once for *fretting* at and biting his horse's ear.

4th interrogatory. Do you not remember a bay stud-horse, purchased by Isaac Coulson soon after you came from hunting? Do you not remember helping him build a stable? do you not remember your brother, Josiah Payne, afterwards selling the horse to Edwin Hickman for the land in dispute, and Hickman making the entry in the name of Coulson? and do you not remember understanding, at the time, your brother was to have the bond? and do you not remember that Coulson, before he returned to Virginia, gave your brother Josiah Payne a bond for the land, in the event the money given for the land was not paid? and do you not remember seeing the bond, and being asked your opinion about it? Declare the truth of the several matters by this interrogatory enjoined after, according to the best of your knowledge, remembrance, and belief.

4th answer to the 4th interrogatory. This deponent does remember helping build the stable; it was of split ash logs. He, this deponent, lived with his father not more than one quarter of a mile from his brother Josiah Payne, about the year 1787, and was frequently there. He now remembers the trade between Jos. Payne and Isaac Coulson for the bay stud horse; his brother's selling the horse for Coulson, perhaps, to Hickman. There was boot given by Coulson, $50, to be paid in a horse, and it is well understood that, in the event that Coulson failed to pay the money for the horse, his brother Josiah Payne was to have the land. His brother Josiah was a man of little or no learning, as was also the *case* with Isaac Coulson. There was a bond given for the land by said Coulson to my brother Josiah Payne. I have often seen it, as my brother frequently got *me* look over his papers. I have seen the same bond since I moved to this State: it was shown to me last year by Mr. Walton. It has been scratched, altered, and obliterated, since I saw it in the hands of my brother Josiah Payne. I always understood that Will. Bush, who gave me a bond for Stone's lick, wrote both bonds—the one to me, and the one to my brother Josiah Payne. My brother set a *heap* of *store* by me. I frequently kept his papers for him, and done business for him until Flower McGregor came, and married his daughter.

5th interrogatory. Do you remember, after Geo. Payne's return from Virginia, 1806, seeing in his possession a release for this land given by the defendant, his mother and guardian?

5th answer to the 5th interrogatory. This deponent remembers no such release: he remembers that George Payne, the son of the said Josiah, went into Virginia on the subject of this land; but that is all remembers about the matter. Further this deponent saith not.

MATTHEW PAYNE.

The 1st Deposition of George Cummings.—No. 12.

1st interrogatory. Do you know the parties complainants and defendant in the title of these interrogatories?

Answer to the 1st interrogatory. This deponent is unacquainted with the complainants and the defendant. He knew Col. Wm. Walton in his life time, and Isaac Coulson in his life time; but of their said children, he knows nothing.

2d interrogatory. Did you know Wm. Bush, James Donelson, and Josiah Payne, Isaac Coulson, or any, and which of them? and how long have you known them, or any, or which of them, respectively? Declare the truth of the several matters by this interrogatory inquired after, according to the best of your knowledge and belief.

Answer to the 2d interrogatory. This deponent was well acquainted with Josiah Payne and Isaac Coulson. He lived on Josiah Payne's plantation about seven years, beginning from Dec. 1785. This deponent and Isaac Coulson came to said Payne's in Dec. 1785: said Isaac Coulson came from Virginia, at the request of said Payne. After being there for some little time, say *three four weeks*, a hunt was proposed by Matthew Payne, and said Josiah, his brother, to the said Coulson. Isaac Coulson objected to the hunt, saying he could not live without bread. It was then agreed that meal should be carried for said Isaac, upon condition that he should cook it himself. On their return from the hunt, they had a great laugh on Isaac, for he had soon learned to live on meat alone, turkey and venison, without bread, or in the room of bread, and had given his meal to his horse. That circumstance he remembers well: he also remembers that some little time after the hunt, said Isaac Coulson purchased a bay stud horse from Josiah Payne, and agreed to give him about 100 pounds Virginia money. That Coulson, some little time after said purchase, finding the horse did not suit him, got said Josiah Payne to sell said horse for him, the said Isaac Coulson; that said Josiah afterwards, in pursuance of said request, sold the horse, as well as this deponent remembers, to one Edward Hickman and that Hickman made the entry for 640 acres on the Caney fork, in the name of the said Isaac Coulson. It was this deponent's understanding that Payne sold the horse to Hickman for Colson, and that Colson was to have the land. This deponent, answering to said interrogatory, says he has no distinct recollection of James Donelson, but remembers to have heard of such a man about that time; that he was well acquainted with Wm. Bush; he was a smart man to do business. This deponent knew but one Wm Bush. He heard of one Abner Bush, a brother-in law of Jno C. Hamilton, who was killed in the summer of the year 1786, in what is now Wilson county, and the William Bush that he was acquainted with, was after that time, no relation of said Abner, as he remembers.

3d interrogatory. What do you know about a contract betwen Isaac Coulson and Josiah Payne for a bay stud horse purchased by Coulson from said Payne? at what price, and under what circumstances? Do you know to whom Isaac Coulson sold that stud horse; and for what consideration did he sell him?

4th interrogatory. Do you know to whom Isaac Coulson afterwards sold that stud horse, and for what consideration did he sell him?

5th interrogatory. Did Isaac Coulson ever sell land, and how much land did he sell, to Jos. Payne, and for what consideration, and in what part of the country did the land lie?

Answer to the 3d, 4th, and 5th, interrogatories. This deponent answers and says that all he knew in relation to the said 3d, 4th, and 5th interrogatories, is fully and truly stated in his answer to the 2d interrogatory administered to him.

6th interrogatory. Was there a bond or writing of any kind given by Isaac Coulson to Josiah Payne, for land? did you ever see that bond?

Answer to the 6th interrogatory. This deponent has some recollection of a bond, but nothing that he can distinctly and satisfactorily remember; he heard them, Payne and Coulson, say there was a bond, and may have seen it, but don't remember that he ever did.

7th interrogatory. Why did Isaac Coulson not return to Tennessee? What do you know, understand, and believe, in this particular?

8th interrogatory. Tell all you know about said Bush and Donelson, their habits of life. Could they, or either of them, write at the time of their death; or what become of them, or either of them? Tell all you know about Josiah Payne and Isaac Coulson, their habits of life, what become of them. Tell all you know about the sale of said stud horse, or said land, the consideration of one or more contracts in relation to the matters in dispute between the parties.

Answer to the 7th and 8th interrogatories. Josiah Payne was an illiterate, lazy good for nothing man about a plantation. Isaac Coulson, also, was an illiterate man, could write his name, and that was as much; but he was a very industrious fine man about a plantation; he made a crop with Josiah Payne, and lived with him some time. Josiah Payne wanted him, very much, to move to Tenneseee, and look after his farm, in order that he might indulge in hunting, fishing, and travelling about. When Coulson left Tennessee for Virginia, he expected to get his hundred pounds from his father's estate, and pay Payne for his horse; but he married in Virginia, and a Mr. Dillon, perhaps his brother-in-law, had so managed his father's estate, either fairly or *fraudulently*—fraudulently as he understood—that Isaac Coulson could get nothing, and could not pay for the horse. Payne and Colson are long since dead, as this deponent understood and believes; that Will. Bush died, he believes, in Kentucky; and this deponent further states that all he knows as answers to the 7th and 8th interrogatories, are involved, and truly stated, in the previous answer made to interrogatories administered to him. And further this deponent saith not.

GEORGE CUMMINGS.

The 1st Deposition of Valentine Dodson.—No. 13.

I recollect being at Jacob Coulson's when the enclosed bond, on the back of which I see the names of Archibald Mossman, Martin Dickinson, and Jeremiah Coulson, endorsed, with the date when each was done, was given; and seen him write it. And this is my name, in my handwriting, subscribed as witness to it. I think I heard Jacob Coulson advise Mrs. Coulson that was, that it was best to comply in that manner in settling the debt; otherwise it would go hard upon the estate. She appeared to be much dejected, and appeared satisfied that the debt should be satisfied in that way. The debt, as I understood, was considerable due from Isaac Coulson to Josiah Payne: and this land, as well as I recollect, for which this bond was given, was to go in satisfaction. Jacob said, at the time, it was the best way; and Mrs. Coulson appeared very well satisfied that the business was settled that way. Josiah Payne was present. I was well acquainted with Mrs. Coulson at the time she gave this bond. And further this deponent saith not.

VALENTINE DODSON.

The 1st Deposition of William Pendarvis.—No. 14.

Answer to the 1st interrogatory. I knew James Walton and Isaac Walton; but do not know Mr. Coulson.

Answer to 2d interrogatory. I knew Col. William Walton, Josiah Payne, and Benjamin Johns; but did not know Mrs Payne.

Answer to 3d interrogatory. We moved to East Tennessee in 1796, and from there to West Tennessee about the first of December, 1797. We settled on Col. Walton's land, under a lease from him on 1st January, 1798. We lived on said land, by virtue of said lease, 6 or 7 years. That it was near to what is called the Payne tract of land, near the mouth of Caney fork.

Answer to 4th interrogatory. I have lived in this neighborhood ever ever since I came from East Tennessee; and live now about a mile and a quarter of the north boundary line of that tract.

Answer to 5th interrogatory. In the year 1798, Benj. Johns came out to this country, under a contract with Jos. Payne, for land near the mouth of Caney fork river. And the said land in dispute the said Payne had no title to—only held a bond on Mr. Isaac Coulson; and, therefore, he could not, or would not, let Mr. Johns have the land now in dispute; but offered said Johns land up the Caney fork, out of the settlement; but Mr. Johns refused to take that land: so a contract was entered into. Payne agreed to give Walton land joining him, and part of the said Payne tract, for land a little up the river, where Mr. Johns settled and lived, till he died, in the year 1822. And the said Wm. Walton soon after fenced in a small part of the land so obtained from said Payne; and the said land has been in the possession of Wm. Walton, and those claiming under him, ever since. And I never heard of Jno. Coulson's claim until the suit in ejectment was brought.

Answer to 6th interrogatory. He moved his family to West Tennessee in October, 1798. I think he settled on Wm. Walton's tract, being the same land he got, as stated in answer to the 5th interrogatory: the consideration was other lands given by Payne to Walton, is answered in 5th interrogatory.

Answer to 7th interrogatory. Col. Wm. Walton, and those claiming under him, have been in possession of a part of the land about twenty years.

Answer to 8th interrogatory. As to the first part of this interrogatory, he refers to previous responses. As to Isaac Coulson, Wm. Bush, and Jas. Donelson, he knows nothing of them: as to all the rest of this interrogatory, he refers to previous responses. And further this deponent saith not.

WILLIAM PENDARVIS.

The 1st Deposition of Joel Payne.—No. 15.

1st interrogatory. Do you know the parties complainants and defendant in the title of these interrogatories?

2d interrogatory. Did you know the land in dispute, Col. Wm. Walton, the *ancestors* of complainants, Isaac Coulson, Josiah Payne, George Payne, and Matthew Payne, Wm. Bush, and Jas. Donelson?

Answer to 1st and 2d interrogatories. That he knew nothing *for* either Bush or Donelson; that perhaps he may have seen the complainants; but he has, as he remembers, never seen the defendant: that he was well acquainted with Isaac Coulson, Josiah Payne, Col. Wm. Walton, George Payne,

and Matthew Payne. George Payne, Matthew Payne, and Josiah Payne, were brothers of his.

3d interrogatory. Do you remember, and, if you do, state particularly the contract between Isaac Coulson and Josiah Payne for 640 acres of land near the mouth of Caney fork?

4th interrogatory. Have you ever seen a bond from Colson to Payne for said land? If so, when, and who were the witnesses to it; and what was the general appearance of the bond on its face?

3d and 4th answers to the 3d and 4th interrogatories. This deponent remembers, when he was about 12 or 13 years old, when Coulson made a crop with George Payne, that Jos. Payne sold a valuable bay stud horse to Isaac Coulson for 100 pounds, or 640 acres of land on the Caney fork. This deponent believing that Coulson gave $50 to boot, which, he believes, was paid in a horse. He thinks, if not mistaken, the horse was paid by Coulson's widow after the death of her husband, at a time when Josiah Payne went to Virginia after a title to the land. This deponent remembers it from this circumstance: Josiah Payne had, before or about the trip to Virginia, *swap't* 200 acres of this land on the Caney fork to him, promising a title when he should get one from the heirs of Coulson: he thinks his brother Josiah told him that Benjamin Johns would bring the title; but of this he is not certain.

5th interrogatory. Have you ever seen any writing in the possession of George Payne, the son of the said Josiah, purporting to be a release to said Josiah's heirs of said land? And, if so, when did you see it? And state the contents of said paper.

6th interrogatory. Have you ever seen a relinquishment of the right of dower to the land in dispute by ——— for me to Josiah Payne in his life time? If so, state its contents, the witness to it, and its contents

5th and 6th answers to the 5th and 6th interrogatories. This deponent saith that he has no recollection of seeing, at any time, either of the writings spoken of in the 5th and 6th interrogatories. And further this deponent saith not.

JOEL PAYNE.

The 1st Deposition of Elizabeth Bradford.—No. 16.

Question by complainant. Did you know Wm Bush and James Donelson, or either of them? And were they or either of them present at that time, to wit, at Josiah Payne's house, at the time of the trade?

Answer. I knew them both very well. Bush is now dead, as I have understood; and she has not heard of James Donelson for 20 or 25 years: they were old locators, and lived about as best suited the dangerous times. Bush sometimes lived at Gen. Robertson's, and was frequently in the neighborhood: they were both single men, as she believes. I have a belief that Bush was present at the time of the trade; but does not remember whether Donelson was there or not. This deponent believes that, at that time, a writing was spoken of, and, if not very much mistaken, William Bush wrote it.

Question by same. How far did you live from your brother Josiah Payne, at the time spoken of?

Answer. I suppose eighty or one hundred yards.

Question by Jeremiah Field, agent for defendant. Do you recollect what year that trade was made?

Answer. I do not recollect. I have said all I know about it.

Question by same. Did Isaac Coulson make a crop at Josiah Payne's?

Answer. He did not. He stayed their but a short time

Question by same. When he bought the horse of Josiah Payne, was he to receive land or a negro boy in payment?

Answer. I do not know.

Question. Did you never hear Josiah Payne say he was to receive a negro boy from Isaac Coulson?

Answer. I never did, as I recollect.

Question by same. Would you as readily swear the trade was made by Jacob or Isaac Coulson?

Answer. I would.

Question by same. Did you ever see Wm. Bush do any writing?

Answer. I did not.

Question by same. Do you know whether he could write or not?

Answer. I do not.

Question by same. Did Bush at all times appear to be a man of good sense?

Answer. I do not know. He appeared to me to be smart enough.

Question by same. Do you know the year he died?

Answer. Indeed I do not.

Question by same. Did you ever know him to be engaged in the locating business?

Answer. I believe he laid the warrant for Coulson.

Question by same. At the time the trade was made, did you see any writing between Payne and Coulson?

Answer. I did not, but I understood there was writings between them; and believe Bush drew them. Further this deponent saith not.

her
ELIZABETH × BRADFORD.
mark.

The 1st Deposition of Willis A. Bush.—No. 17.

1st interrogatory. Do you know the parties, complainants and defendants, in the title of these interrogatories?

1st answer to the 1st interrogatory. That he is unacquainted to the parties in the title of these interrogatories.

2d interrogatory. Do you know James Donelson, Wm. Bush, and Isaac Coulson, or either of them? are they or either of them now alive?

2d answer to the 2d interrogatory. That he knows nothing of said Coulson or Donelson either when dead or when *alive*. That Wm. Bush, of this State, Clark county, is the father of this deponent, as he is informed and believes

2d interrogatory. Do you or do you not know whether the said Donelson, Bush, and Isaac Coulson, or either of them, were in the State of Tennessee; and upon what business were they therein?

3d answer to the 3d interrogatory. This deponent, as to said Donelson and Colson, answers, as in 2d interrogatory, that he knows nothing. That his said father, Wm. Bush, whether he was ever in Tennessee, he *cannot* tell.

4th interrogatory. Look upon the paper writing now produced and shown to you—Whether or no are you by any, and what means, acquainted with the name and character of the said James Donelson, Wm. Bush, and

Isaac Coulson? and whether or no is the name of Isaac Coulson, James Donelson, and Wm. Bush, subscribed as obligor and witness to said writing, of the proper handwriting of the said Coulson, Donelson, and Bush? Declare the truth of the several matters of interrogatory inquired after, according to the best of your knowledge and belief.

4th answer to the 4th interrogatory. This deponent answers and says that he knows nothing of the character of the handwriting of either the said Coulson or Donelson, or the character of their persons. That he is acquainted with the handwriting of his father, Wm. Bush, having seen his writing both before and since his death; and that *he believes* that said paper writing is in the proper handwriting of his said father, Wm. Bush. The bond now before me, was dated the 2d January, 1787, and is in these words:

Know all men by these presents, that I, Isaac Coulson, of the county of Davidson, and State of North Carolina, do oblige myself, my heirs or assigns, to pay to Josiah Payne 100 pounds Virginia money, in payment for a certain bay stud horse I bought of him, within 12 months from the date hereof, with lawful interest; otherwise, in lieu thereof, I do oblige myself to make over all my right and interest of a certain entry and warrant of land of 640 acres, lying on the north side of Cumberland river, on said river, about one or two miles above the mouth of the Caney fork, unto the said Josiah Payne, of the county and State aforesaid, or his heirs and assigns; and if a deed or grant should issue to me before said entry or warrant should be transferred from me to said Payne, then, and in that case, I do hereby oblige myself to make a transfer deed to all my right, title, and interest of the aforesaid land, and the aforesaid Josiah Payne, or his assigns, which deed and right, when made, is to be taken in full payment for the 100 pounds and interest; and I do hereby oblige myself to warrant and defend said deed from me, my heirs and assigns, for ever, unto the said Payne and his heirs.

In witness whereof, I do hereby fix my hand and seal, this 2d day of January, 1787.

ISAAC COULSON. [SEAL.]

Witness present:
JAS. DONELSON,
W. BUSH.

And further this deponent saith not.

WILLIS A. BUSH.

The 2d Deposition of Willis A. Bush.—No. 18.

Question by Sampson Williams, agent for defendant. Have you been shown a bond purporting to have been signed by Isaac Coulson, with the names of James Donelson and Wm. Bush as subscribing witnessess?

Answer. I was shown a bond signed by Coulson, to which I recollect Wm. Bush's name is signed as a witness, together with the name of some other person, perhaps James Donelson. My deposition has heretofore been taken in this suit about said bond; which deposition is here referred to.

Question by same. When that bond was shown you, did you not have some doubts whether the bond shown you was the handwriting of Wm. Bush? Was there not some interlineations or erasures on the face of the bond?

Answer. I was under the impression that it was written by him, and still retain that impression. I do not recollect of having any doubts; and I

do not believe I had any. I do not recollect whether or not there were any interlineations or erasures.

Question by same. Have you no reasons to believe that your father did not live within two hundred miles of Nashville at the date of the bond? and where did he live on the first day of January, 1787?

Answer. I have reason to believe, from information since I was born, that he did live more than 200 miles from Nashville at the date of the bond. From information, I believe he then lived in what is now Clark county, Kentucky.

Question by same. Did you ever hear your father, Wm. Bush, speak of having any acquaintances in Tennessee, on Cumberland river, at or near Nashville? And, if so, when and where were those acquaintances formed, and who were they?

Answer. Never that I recollect.

Question by same. Were you not once acquainted with one Michael Stoner? was he not a hunting partner of your father's? and when did they cease their hunting excursions?

Answer. I was acquainted with Michael Stoner. I know nothing of *their* being in partnership with my father. I may have heard him say so; but I do not now recollect it. I do not know when they ceased their hunting excursions.

Question by same. What were your father's pursuits or occupations since your remembrance?

Answer. His occupation was farming; and he was in pursuit of a *silver ; but never caught it*. He was from home at least half of his time.

Question by same. Was your father, Wm. Bush, much in the habit of writing; and frequently applied to draw bonds, deeds of conveyances, mortgages, &c.?

Answer. I do not think he was much in the latter part of his life; but, from information, he was very much in the habit of it in the early part of his life. I have seen a great many bonds said to have been written by him.

Question by same. Did you ever hear your father speak of living in the neighborhood of Nashville, Tennessee, at any time?

Answer. I do not recollect that I ever did. And further this deponent saith not.

WILLIS A. BUSH.

The 1st Deposition of Wm. Baker.—No. 19.

1st interrogatory. Do you know the parties complainant and defendant in the title of these interrogatories, or any, or which of them?

2d interrogatory. Do you know Jeremiah Fields, Sampson Williams, Armstead Stubblefield, Sarah Payne, widow of Josiah Payne, George Payne, son of said Josiah, or any, or which of them?

1st answer to the 1st and 2d interrogatories. That he is unacquainted with Jno. Coulson; but knows James Walton and Isaac Walton. Does not know Jeremiah Fields. Did know Sampson Williams, Armstead Stubblefield, and Sarah Payne.

3d interrogatory. Tell the conversation, if you ever had any, with the above named persons, or either of them, in relation to the matters in dispute between the parties, in the title of the interrogatories.

4th interrogatory. Were you, or were you not, subpœnæd in the ejectment at law? And if not sworn and examined, why discharged, and by whom?

5th interrogatory. When, and at what time, did the sale of the lands in dispute for the taxes take place? were the persons referred to, or any of them, at that sale? And what, if any thing, was said at that sale, and by whom, about the land in dispute?

6th interrogatory. Do you or do you not remember to have seen a bond for that land from Isaac Coulson to Josiah Payne, in possession of said Sarah Payne? and what was then the general appearance of said bond on its face? Declare the truth of the several matters in the above interrogatory set forth, according to the best of your knowlege and belief.

3d, 4th, 5th, and 6th answers to the 3d, 4th, 5th, and 6th interrogatories. This deponent lived about one year with Henry Bradford, a supposed brother-in-law of Sarah Payne; and met with him in the year 1807, at Dickson's spring, intending to buy land at tax sales. Bradford and himself agreed not to bid against each other; and in talking about their different tracts intended to be purchased, he told Bradford he intended to bid for this land lying near the mouth of the Caney fork. Bradford then told the story of Sarah Payne; that she was a widow; that her husband, in his life time, had bought and paid for that land; and had only a bond for the title. He told Bradford if there was a bond, and he could see it, and be satisfied, he would not bid for that land. Bradford then called out Mrs. Payne, who produced the bond; and this deponent saw it, and was satisfied. Sarah Payne, by himself, and perhaps by others, was permitted to buy the land This deponent further says Bradford, Mrs. Payne, and himself, was some time looking at the bond. Bradford read it. This deponent looked at it himself, and is tolerably well satisfied that the bond now before him, with his name written on the back of it, is the same bond. He is also tolerably well satisfied the scratches now to be seen on the bond, were not on it at the time Bradford and himself read it at Dickson's springs. This deponent was subpœnaed on the ejectment; and, after been asked and examined by a little man, a stranger to the deponent, in the presence of Sampson Williams; and being told substantially as above, was paid and discharged. Williams said who had you subpœnaed? I told him the subpœnaed said for Coulson; and I suppose you and Coulson are the same, or you stand for Coulson. Williams said I know you are my witness, and I discharged him. This was the trial term, and this deponent stayed and heard the witnesses sworn; but was not examined himself. Further this deponent saith not.

WM. BAKER.

The 1st Deposition of Charles Braden.—No. 20.

1st interrogatory. Do you know the parties complainant and defendant in the title of these interrogatories?

1st answer to the 1st interrogatory. That he knows nothing *nothing* of the plaintiff or defendant.

2d interrogatory. Did you know Wm. Bush, of Clarke county, Kentucky? Did you ever, at any time, see him in the State of Tennessee; in what part of the State; at what time; and on what business? Who are his acquaintances or relations in Tennessee?

2d answer to the 2d interrogatory. That he never saw Wm. Bush in any other place except Clarke county, Kentucky, 18 or 20 years ago, at his brother Philip Bush's.

3d interrogatory. Whether or no are you acquainted with the general character of said Wm. Bush? And from the knowledge of his general character, is he entitled to credit, when on his oath in a court of justice? State all you know of the character of the said Wm. Bush, his acquaintances, and title to credit on his oath in a court of justice, according to the best of your knowledge and belief.

3d answer to the 3d interrogatory. Answers and says, that, in the year 1799, he purchased a tract of land in Robertson county, Tennessee, of Philip Bush, brother of said Wm. Bush. Before the purchase, he inquired and found that the Bushes were men of good character. William Bush, he understood, was a deacon in the Baptist church; and, from every thing he could hear or learn, he was a man evidently entitled to full credit. He has heard that they, the Bushes, were in some way related to Gen. Johnson, of Robertson county, but how, or in what way, he does not know. He thinks he has heard that Gen. Robertson's first wife was related to the family of the Bushes. Further this deponent saith not.

CHARLES BREDEN.

The 1st Deposition of Isaac Walton.—No. 21.

1st interrogatory. Do you know the parties, complainants and defendants, in the title of these interrogatories mentioned?

2d interrogatory. Did you know Sarah Payne, wife and relict of Josiah Payne, in his life time? Col. Wm. Walton, father of complainants, in his life time?

1st and 2d answer to the 1st and 2d interrogatories. He is well acquainted with the complainants, Sarah Payne, her husband, Josiah Payne; and said Wm. Walton was the brother of this deponent.

3d interrogatory. Do you or do you not know the contract made with Wm. Walton, of the one part, and Sarah Payne, and the heirs of said Josiah Payne, in relation to the lands in dispute, 640 acres, at the mouth of the Caney fork, or any part of it? what consideration was given and received for said land? Tell all you know.

3d answer to the 3d interrogatory. This deponent thinks he witnessed several deed and contracts between Sarah Payne and his brother. He witnessed one deed the 23d of May, 1807, to James Walton, a son of his brother William; and one deed of the 20th of June, 1807, to James Walton; and one deed the 1st of June, 1807, to Isaac Walton, another son of said William. The money was paid by my brother; and the deeds taken in the names of his children, to make it more convenient for the witness to prove the deeds at Carthage. This deponent cannot state how much money was paid; he remembers to have seen considerable quantities paid.

4th interrogatory. Look upon the paper writing now produced and shown to you, and the endorsement made thereon. Are you not a subscribing witness to said endorsement? and whether or no are you by any, and what, means acquainted with the and character of said writing of said John H. Bowen and Wm. Walton? and whether or no is the names Jno. H. Bowen and Wm. Walton subscribed as assignor witness to said writing, of the proper handwriting of the said Wm. Walton and John H. Bowen?

4th answer to the 4th interrogatory. This deponent says he is acquainted with the handwriting of Jno H. Bowen and Wm. Walton. He believes that the signature on said bond, to be their proper handwriting. He

knows that he, himself, witnessed the said assignment. He has himself, this day, written his name on the back of said bond. He believes the deed to James Walton, of the same date, with the assignment, contains the land called for in the bond. At that time, it was believed that Sarah Payne had a good title to the land, from the tax sale; and Josiah Payne's bond was assigned to her with a view to aid the deed to Walton.

5th interrogatory. Whether or no was the consideration of said assignment, one hundred acres of land, conveyed to Benjamin Johns, to extinguish a debt due from said Josiah Payne to said Johns?

5th answer to the 5th interrogatory. This deponent knows nothing except what he may have heard Johns, Payne, and Walton say. He at all times understood from their conversations, that the exchange of land with Payne was on account of some obligation from Payne to Johns.

6th interrogatory. Whether or no is the land in said bond, the same land conveyed by said Sarah Payne to James Walton, one of the complainants, by deed of the 23d of May, 1807?

6th answer to the 6th interrogatory. This deponent believes the bond and the deed were for the same land. Further this deponent saith not.

ISAAC WALTON.

The 1st Deposition of John Baker.—No. 21.

1st interrogatory. Do you know the complainants, James and Isaac Walton, and the defendant, John Coulson, in the title of these interrogatories?

Answer to the 1st interrogatory. He says he has long been acquainted with James and Isaac Walton; but has no acquaintance with Isaac Coulson.

2d interrogatory. Did you know Col. William Walton, deceased, and Sampson Williams?

["Remarks."—There was no answer to the 2d interrogatory in this deposition.]

3d and 4th interrogatories.

3d. Do you know any thing, or have you heard the particulars to these interrogatories? Say every thing in relation to the bond given by Isaac Coulson to Josiah Payne for the land in dispute near the mouth of the Caney fork.

4th. Did Sampson Williams ever tell you he and Jeremiah Fields had purchased the land from Jno. Coulson, the heir of Isaac Coulson; and that they, Fields and Williams, were alone interested in the claim? or what did you state? and what did Sampson Williams state to this court on the trial at law, when you were compelled to answer interrogatories by virtue of an attachment which issued against you as a witness? Declare the truth of the several matters by this interrogatory inquired after, according to the best of your knowledge, remembrance, and belief.

3d and 4th answer to the 3d and 4th interrogatories. He answers and says as follows: Sampson Williams, some years ago, told deponent he was interested in the suit for the land claimed by Coulson's heirs against Walton, as to what took place upon the attachment in the federal court. Deponent refers to the record and affidavit filed in the cause at law, in Nashville. He does not recollect any other conversation, of importance, with Williams about the land. Col. Walton, in his life time, told me that when the suit was first brought for this tract of land, he was on his way to Nashville to defend it, and met with Sampson Williams, and told him his business; and told him he not only had a deed from the sheriff for the land, but he had

also a bond from Isaac Coulson to convey the land to Jos. Payne. Williams replies to him that he was the agent of Coulson; and that if Col. Walton would show him the bond, he would dismiss the suit. Walton said, after they got to Nashville, he gave him the bond to look at: Williams kept it during that evening, and returned it to him the next day, as well as I recollect; That he, Walton, left Nashville under a belief that the suit would be dismissed. It was some time after, before he heard that the suit was not dismissed; and when he came to examine his bond, he found Coulson's name had been scratched over, or scratched out; and that he believed Sampson Williams had done it, or caused it to be done. That he did not examine the bond when Williams returned it to him, but he had always kept it amongst his private papers, and knew of no other person having any thing to do with them but himself. Col. Walton, in his life time, often talked with me about this transaction, and always told it to me as stated above, as well as I can recollect: from the time I first heard this matter talked of, Cols. spoke hard of Williams; and I think continued to dislike him to the time of his death. Further this deponent saith not.

JOHN BAKER.

"Remarks"—The following interrrogatories were proposed to Samuel Ross, Mary Ross, and Nathan Dillon, as will be seen in reference to pages 99, 100:

The 1st Deposition of Samuel Ross, Mary Ross, and Nathan Dillon.—Nos. 22, 23, and 24.

Interrogatory 1st. Do you know the parties, complainants and defendant, in the title of these interrogatories?

2d interrogatory. Do you know Isaac Coulson, Jacob Coulson, the widow and relict of said Isaac Coulson, Josiah Payne, in his life time?

3d interrogatory. Did you or did you not see, at any time, John Coulson, son of said Isaac Coulson? under what circumstances, and at what time did you see or know him to be in the county of Smith, W. Tennessee?

4th interrogatory. Look upon the paper writing now produced and shown to you. Whether or no are you by any and what means acquainted with the name and character of said writing of said Valentine Dodson, Jacob Coulson, and widow of said Isaac Coulson? and whether or no is the name of Valentine Dodson, Jacob Coulson, and widow of said Isaac Coulson, subscribed as obligor and witness to said writing? if the proper handwriting of said Dodson, Jacob Coulson, and widow of said Isaac Coulson, deceased?

5th interrogatory. Look also on another paper writing now produced and shown to you. Whether or no are you by any, and what, means acquainted with the name and character of said writing of the said Jacob Coulson and Peter Dillon; and Jacob Coulson subscribed as obligor and witness to said last mentioned writing? If the proper handwriting of said Coulson and Dillon, declare the truth of the several matters of this interrogatory inquired after, according to the best of your knowledge and belief.

Samuel Ross answers to the 1st interrogatory. That he is unacquainted with the complainants and defendants in the title of these interrogatories?

2d answer to the 2d interrogatory. He knows nothing of the persons mentioned in the said interrogatory.

3d. Knows nothing in relation to the matter involved in this 3d interrogatory.

4th. Knows nothing of the paper writing mentioned in this 4th interrogatory.

5th answer to the 5th interrogatory. This deponent, Samu'l. Ross, went in the fall of the year, 1815, from Smith county, to Grayson county, Virginia, about twelve months after the death of Jacob Coulson, as he understood, and received the paper writing from Jeremiah Coulson, son of the said Jacob, and brought it to Tennessee, Smith county, to Nathan Dillon, administrator of William, obligor in said writing. Further this deponent saith not.

SAMUEL ROSS.

Mary Ross, wife of said Samuel Ross, deposeth and saith:

1, 2, 3 answers to 1, 2, 3 interrogatories. Knows nothing of the complainant. Knows nothing of Isaac Coulson, his widow, Josiah Payne, Jacob Coulson, except from hearing they were relations of hers: Isaac and Jacob *was* her uncles; Josiah Payne and Jno. Coulson were her cousins. She remembers to have seen Jno Coulson, son of Isaac Coulson, at her father's, William Dillon's, in Smith county, when she was about 12 or 13 years old, say about 1807. She then understood he came to see about some land with Jos Payne.

4, 5 answer to 4, 5 interrogatories. Knows nothing of the paper writing mentioned in the 4,5 interrogatories. Further this deponent saith not.

MARY ROSS.

Nathan Dillon deposeth and saith as follows:

1st answer to the first interrogatory. He is unacquainted with the complainants: that the defendant, Jno Coulson, was a cousin of his, and has seen him at his father's, Smith county, in the winter and spring of the *years* 1807.

2, 3 answer to the 2d and 3d interrogatories. Isaac and Jacob Coulson were this deponent's uncles: has seen Isaac's widow, and that Josiah Payne was a cousin of this deponent's mother. In the winter of the year 1807, in February, he believes, Jno. Coulson, son of Isaac, came to his father's, in Smith, Tennessee, from Virginia, as he then understood, to see about the land now in dispute, or some land between Josiah Payne and Isaac Coulson: Josiah Payne was then dead. Whether Jno. Coulson and this deponent's father went to see the Paynes about the land, this deponent cannot say positively; but, his belief is that they did go to see the Paynes about this land.

4th answer to the 4th interrogatory. Knows nothing of the paper writing in the 4th interrogatory.

5th answer to the 5th interrogatory. This paper writing now produced, is the same paper writing brought to him from Virginia, by Samuel Ross. It is in the proper handwriting of Jacob Coulson, as he believes. This deponent has seen his uncle, Jacob Coulson's, writing, and believes this to be his. Peter Dillon, the witness, lives in Green county, East Tennessee: he is this deponent's uncle. He has seen his writing also, and believes this is his writing, that is to say, his name is in his writing. Further this deponent saith not.

NATHAN DILLON.

The 1st Deposition of Flower McGregor.—No. 25.

1st interrogatory. Do you know the parties, complainants and defendant, in the title of these interrogatories?

2d interrogatory. Did you know Josiah Payne, and Sarah his wife, when alive; Col. Wm. Walton, when in his life time? Tell all you know.

1st answer to the 1st and 2d interrogatories. He was acquainted with James and Isaac Walton. Knows nothing of Jno. Coulson. Knew Josiah Payne, and Sarah his wife, and Col. Wm. Walton, when they were alive. This deponent married the daughter of the said Josiah.

3d interrogatory. What contract was made between said Sarah Payne, and said Wm. Walton, when alive, in relation to the land in dispute, 640 acres, near the mouth of the Caney fork? How much money was paid, and how much still remains to be paid? Tell all you know.

3d answer to the 3d interrogatory. This deponent says it was always his understanding that the whole of said land was sold to the said Wm. Walton; but at what price he *knowd* not. He has heard of 72 acres exchanged with Johns; 136 *deeded* to James Walton; and the balance, upwards of 400 acres, deeded to Isaac Walton—not that these matters are of his own knowledge; only believes they may be true. There are two bonds now in his possession, which were given by said Walton to said Sarah, on account of said land, amounting, in all, to one thousand eight hundred and fourteen dollars.

4th interrogatory. Who administered on the estate of the said Sarah Payne, after her death? what amount of assets did she die possessed of? has her estate, into what amount, been distributed among the heirs of said Josiah Payne?

5th interrogatory. Whether or no was the contracts for said land between Walton and Payne, made by the consent of the heirs of said Josiah Payne? Tell all you know.

4th and 5th answer to the 4th and 5th interrogatories. This deponent administered on the estate of said Sarah Payne. Her estate as distributed among the children of said Josiah, amounted to $874 06¼ cents, except one-ninth part now due to Sally Payne, widow of Esq. Payne. Josiah Payne had 10 children: Polly, wife of this deponent; Betsey, wife of Wm. Payne; Anne, wife of Gideon Pillow, Geo. Payne, Esquire Payne, Patsey, wife of Greenwood Payne; Green Payne, Zachariah Payne, Spencer Payne, and Minerva, married to Robert Booth. Green died before his mother, and had no share. George died and had one child. 'Squire Payne was dead, and left *children*, 4, *or* 5. As to the heirs of Josiah Payne consenting to sale of said land by their mother to Walton, this deponent always believed and understood no one [The original defaced.] he ever heard of. This deponent was always willing, as to himself, to abide by any thing Mrs. Payne might do about the land.

6th interrogatory. Did or did not the heirs and representatives of said Sarah and Josiah refuse, on application, to become parties complainants to this suit?

6th answer to the 6th interrogatory. This deponent knows that himself and Greenwood Payne refused to become parties to this suit. He has talked to others of the heirs, and they were unwilling to risk the consequences. And further this deponent saith not.

FLOWER McGREGOR.

The 1st Deposition of Jno. Porter.—No. 26.

1st interrogatory. Do you know the parties, complainants and defendant, in the title of these interrogatories?

1st answer to the first interrogatory. That he knows nothing of Jno. Coulson—was well acquainted with James and Isaac Walton.

2d interrogatory. Did you know Col. Wm. Walton, in his life time, Benjamin Johns, in his lifetime, Josiah Payne, in his lifetime? are you acquainted with the land in dispute, or any part thereof? and do you, or do you not know of any contract or agreement of said William, Benjamin, and Josiah, respecting the land in dispute, or any and what part thereof? State all you know.

2d answer to the 2d interrogatory. He knew Wm. Walton, in his life time; he lived with him about six years as his overseer. He is well acquainted with the land in dispute. He never saw, as he knows of, the said Josiah Payne. He was never present at any bargain about the land between Walton, Johns,and Payne; but has heard of such a contract.

3d interrogatory. At what time, and under what circumstances, did said William Walton take possession of said land, or any part thereof? and how long did he keep that possession? Declare, &c.

3d answer to the third interrogatory. About twenty-one years ago, in the year 1803, this deponent and his mother moved to the State of Tennessee, and settled under Colonel Walton, that part of the Coulson tract of land that Col. Walton said he had got in an exchange of the land on which Benjamin Johns lived. Josiah Payne had purchased Johns's place from Walton, by giving Walton the land on which he and his mother had settled; not that he was present or knew of his own knowledge of the bargian; but John's and Walton had told him so. This deponent's mother lived there until about the time of her death; and this deponent lived there about six years. Col. Walton and his heirs have occupied it ever since. The Coulson tract adjoining, always went by the name of Payne's tract. And this deponent never heard of the Coulson claim, until about the time this suit was commenced.

4th interrogatory. At what time, if ever, did you first know of the Coulson title to said land? In whom did the people of the neighborhood say the title to said land was vested before the time of bringing this suit?

4th answer to the 4th interrogatory. He says his answer to this is contained in his answer to the third interrogatory. And further this deponent saith not.

his
JOHN × PORTER.
mark.

The 1st Deposition of Thomas Hickman.—No. 27.

1st interrogatory. Look upon the paper writing now produced and shown to you. Are you not a subscribing witness to said writing?

2d interrogatory. Tell all you know in relation to the consideration of said writing.

3d interrogatory. Did or did not, Col. Will. Walton, in his life time, convey to Benjamin Johns, in his life time, one hundred acres of land, at the request of Josiah Payne, in his life, to extinguish a debt due from said Payne to said Benj. Johns? Tell all you know, &c.

1st answer to the 1st, 2d, and 3d interrogatories. Deponent answers and says, that the paper writing, now produced and shewn to him, is dated the 1st day of May, 1800, given by Josiah Payne to Wm. Walton, and attested by this deponent, and a certain Benjamin Johns. It appears to be endorsed to Sarah Payne by said Walton, and the endorsement tested by John H. Bowen and Isaac Walton. The assignment is dated 23d May, 1807. This deponent has signed his name on the back of said writing. This deponent states that the whole of said bond is his own proper handwriting. He believes the consideration of said bond was an exchange of land between Payne and Walton, on account of some obligation from Payne to said Johns the land given by Payne to Walton: was to have been taken off the lower end of the Coulson tract. Further this deponent saith not.

THO. HICKMAN.

The 1st Deposition of Wm. Thomson.

Deposeth and saith that he is fifty years of age; that, on the 20th of May, 1814, I went to the house of Col. Wm. Walton, who then lived near the mouth of Caney fork, in Smith county, and inquired of him for McKinnie and Glover.

The 1st Deposition of Peter Looney.—No. 28.

Question by defendant's agent, to Peter Looney, witness. What is your age?

Answer. Seventy years next November.

Question by same. When did you first settle in this State?

Answer. In November, 1779.

Question by same. Have you resided in this county ever since the year 1785?

Answer. I have.

Question by same. Were you acquainted with Josiah Payne; and, if so, how long?

Answer. I was. Our acquaintance commenced in 1778, and continued until his death.

Question by same. From your knowledge of Josiah Payne, and the situation of the country, in December, 1786, and January, 1787, do you believe that said Payne was at home in those months?

Answer. I cannot speak positively; but, from my recollection of that time, I think he was.

Question by same. How far did you and Josiah Payne live apart?

Answer. About twelve miles, I think.

Question by same. Were not the Indians very troublesome about that time, and travelling more dangerous than at any other time, and less travelling done?

Answer. Yes.

Question by same. From your acquaintance with Josiah Payne, do you believe if he had a just claim against any person for money, or any other valuable thing, that he would give such extraordinary indulgence as to wait ten, fifteen, or twenty years, without applying for the same, or commencing suit?

Answer. I do not think he would.

Question by same. Did you know a man by the name of William Bush?

Answer. I knew of such a man in the year 1785.

Question by same. Do you know when said Bush was killed?

Answer. I do not. It was shortly after our acquaintance.

Question by same. Do you believe Wm. Bush was capable of drawing bonds, deeds, mortgages, &c.?

Answer. I do not think he was.

Question by same. Did you ever hear of said Bush's being engaged in surveying or locating land?

Answer. No. I never heard or knew him to be engaged in any such business.

Question. Did you ever know a man by the name of Michael Stoner?

Answer. I did.

Question. With whom or where did he live while you knew him?

Answer. He sometimes lived at Manscoe's lick, with the Drakes, perhaps, and sometimes in the woods.

Question. Was Michael Stoner in this country between the years 1785 and 1790? And, if he was, would not you have known of it?

Answer. I believe he was not; and, if he had, I think I should have known it, as we were early acquaintances, and would have went some distance to have seen him.

Question by same. Did you ever know of Michael Stoner and Wm. Bush to be in partnership in trading or hunting, or any way connected in business?

Answer. No. I did not; nor never heard of them being connected in business of any kind; and, if such had been the case, I think I should have heard of it.

Question by same. Was you acquainted with, or heard of any other man by the name of Wm. Bush being in this country between the years 1786 and 1788, except Abner Bush's brother Will. Bush, the same heretofore alluded to in this deposition?

Answer. I never knew any other man by the name of Wm. Bush at that time; but the same alluded to here. And further this deponent saith not.

PETER LOONEY.

Peter Looney's 2d Deposition.—No. 29.

Question 1, by defendant's agent, to Peter Looney, witness. What is your age?

Answer. Seventy years, November next.

Question by same. When did you first settle in the State of Tennessee?

Answer. In November, 1779.

Question by same. Have you resided in this county ever since the year 1785?

Answer. I have.

Question by same. Were you acquainted with Josiah Payne? If so, how long?

Answer. I was. Our acquaintance commenced in 1778, and continued until his death.

Question by same. From your knowledge of Jos. Payne, and the situation of this country in December, 1786 and 1787, do you believe that said Payne was at home in those months?

Answer. I cannot speak positively; but, from my recollection of that time, I think he was.

Question by same. How far did you and Josiah Payne live apart?

Answer. Twelve miles, or thereabouts, I think.

Question by the same. Were not the Indians more troublesome about that time, and travelling more dangerous, than at any other time, and less travelling done?

Answer. Yes.

Question by the same. From your acquaintance with Josiah Payne, do you believe, if he had a just claim against any person for money or any other valuable thing, that he would give such extraordinary indulgence as to wait ten, fifteen, or twenty years, without applying for the same, or commencing suit?

Answer. I do not think he would.

Question by the same. Did you know a man by the name of Will. Bush?

Answer. I knew such a man in the year 1786.

Question by same. Do you know when said Bush was killed?

Answer. I do not. It was shortly after our acquaintance

Question by the same. Do you believe Wm. Bush was capable of writing or drawing deeds, bonds, mortgages, &c.?

Answer. I do not think he was.

Question by the same. Did you ever know or hear of said Bush being engaged in surveying or locating of land?

Answer. No. I never heard or knew him to be engaged in any such business.

Question. Did you ever know a man by the name of Michael Stoner?

Answer. I did.

Question. With whom or where did he live while you knew him?

Answer. He sometimes lived at Manscoe's lick, with the Drakes perhaps, and sometimes in the woods.

Question. Was Michael Stoner in this country between the years 1785 and 1790? And, if he was, would not you have known of it?

Answer, I believe he was not. And, if he had, I think I should have known it, as we were early acquaintances, and would have went some distance to have seen him.

Question by same. Did you ever know of Michael Stoner and William Bush to be in partnership in trading or hunting, or any way connected in business?

Answer. No; I did not; nor never heard of them being connected in business of any kind. And, if such had been the case, I think I should have heard it.

Question by same. Were you acquainted with or heard of any other man by the name of Wm. Bush being in this country between the years 1786 and 1788, except Abner Bush's brother W. Bush, the same heretofore alluded to in this deposition?

Answer. I never knew any other man by the name of Wm. Bush, at that time, but the same alluded to here.

Question by complainant. Were you acquainted with Michael Stoner in the country, any time, within the years 1780 and 1790; and under what circumstances were you acquainted with him?

Answer. The last time I recollect seeing him was the 10th May, 1780. I had no acquaintance, but that of his being a hunter.

Question by same. Were you acquainted with Wm. Bush in this country, from Clark county, Kentucky, within the years 1780 and 1790? Tell all you know of Michael Stoner, Wm. Bush, or either of them, as to their having been at any time in the county of Cumberland.

Answer. My acquaintance with Stoner was in the winter and spring of 1786.

Question by same. Were you acquainted with, and at what time, with Wm. Bush, brother of Abner Bush, who was the brother-in-law Jno. C. Hamilton? Tell all you know in relation to him, where he lived, and under what circumstances.

Answer. My acquaintance with Wm. Bush commenced in 1786; and I think, as well as I can recollect, the report was he was killed by the Indians in 1787 or 1788. I have no knowledge of where he came from.

Question by the same. Were you acquainted with James Donelson, and at what time?

Answer. I have no knowledge of the man.

Question by the defendant. Were you not acquainted almost with every person that is in the present county of Sumner, in the years 1786 and 1787?

Answer. I was acquainted with the most of them in 1787, for we were generally forted.

PETER LOONEY.

The 1st Deposition of Frances Bush.—No. 30.

Question by defendant. What is your age?

Answer. Sixty four the last day of last *day of* January.

Question by same. When did you become acquainted with Wm. Bush; and where did you reside at that time; and in what year did you marry with the said Wm. Bush; and where did you reside at the time of your marriage?

Answer. In Orange county, in Virginia. And I resided in the same county, and married him the same year I become acquainted with him, which was in the year 1778.

Question by same. In what year did you settle in Kentucky; and have you resided there ever since?

Answer. In the year 1783; and have lived here ever since.

Question by same. Where did your husband, Wm. Bush, reside in December, 1786, and January, 1787? and was he at home on the first day of January, 1787?

Answer. We resided in this neighborhood, but whether he was at home or not, I don't recollect.

Question by same. Do you not suppose that if your husband, Wm. Bush, had been on a distant journey on the first of January, 1787, you would have recollected it?

Answer. It appears as if I ought, but I do not recollect it.

Question by same. Did you know Michael Stoner? If you did, in what year was your acquaintance with him?

Answer. I think the first time I saw him was in Holson, in about the year 1782.

Question by same. Was William Bush, your husband, ever connected with Michael Stoner in trading, trapping, or hunting? If they were, in what year; and where did they reside at that time?

Answer. They were in partnership before we were married; and continued so until after we came to this country. And I think they settled up their business, and dissolved their partnership, about the year 1784 or 1785.

Question by same. Was Wm. Bush, your husband, ever engaged in business that required much writing, such as drawing deeds or bonds?

Answer. I do not know about deeds. I know he used to write a good deal.

Question by same. Was your husband, Wm. Bush, ever in Tennessee, near Nashville? or was he ever engaged in surveying or locating land in Kentucky or Tennessee? If he was, in what year?

Answer. He was a good many years engaged in land business in Kentucky, but whether he was engaged in land business in Tennessee or not, I do not know only from hearsay.

Question by same. Did you know Josiah Payne that resided formerly in Guilford county, North Carolina, and afterwards settled in Sumner county, Tennessee? Or, if you did, when did your acquaintance commence, and in what year?

Answer. If I ever saw him, I don't recollect it.

Question by same. Did you know Isaac Coulson?

Answer. I don't know any thing of him. And further the deponent saith not.

her
FRANCES × BUSH.
mark.

The 1st Deposition of Wm. Thompson.

Who deposeth and saith that he is 50 years of age. That, on the 20th of May, 1814, I went to the house of Col. Wm. Walton, who then lived near the mouth of Caney fork, in Smith county, and inquired of him for McKinsie and Glover, against whom I had writs, their given names not recollected. Col. Walton replied that they lived just by him, and on land that was his, and was his tenants; and that he had put them there, and he would defend the suits, and asked me to show him the declarations. After he, Walton, saw the declarations, he said that it was for the said land that the two men, McKinsie and Glover, lived on. Said Walton stated that he got the land some way by purchases from Jos. Payne—the particulars I can't recollect; and said Walton asked me if I had any blank bonds, or bonds for the appearance of the defendants? I told him I had, and showed them to him, and he then signed them as security for their appearance, and then directed me the way to where they lived, and I found them agreeable to his directions, which was about a mile above where said Walton lived at that time. I then executed the writs, and delivered the copies of the declarations at one of said defendant's houses, both being together; and they both signed the bonds that said Walton had signed.

Question by plaintiff's agent. Is not the writ heres howed to you, and about to be enclosed, which appears to be executed on the 20th day of May, 1814, the writ you had against said Glover?

Answer. I believe it is the same one. *And I executed* another writ, at the same time, on McKinsie; for I have no recollection of ever executing

any writs on men of the same names, except them. And further this deponent saith not.

WM. THOMPSON.

19*th June*, 1821.

The 1*st Deposition of Archibald Mossman.*

Question by the plaintiff's agent. Was or was not the transfer from Abdego Castell to yourself, in the words and figures following, to wit: Dear sir: Please to transfer to Archibald Mossman that 100 acres of land that I had a transfer for from Jas. Pennington, and, in so doing, you will oblige yours, &c., this 28th February, 1811. his

ABDEGO × CASTELL.

mark.

To major Abner Jones; Ja. Coulson,—and which is appended to this deposition, written by Jacob Coulson in your presence; and you saw him sign his name thereto?

Answer. It was. And I did see him sign his name thereto.

Question by same. From a comparison of the handwriting of a bond in the words and figures following, to wit:—Virginia, set Know all men by these presents, that I, Susanna Coulson, widow, of With county, am held and firmly bound unto Jos. Payne, of the Western Territory, Davidson county, in the sum of 100 pounds lawful money of Virginia, to be paid unto the said Jos. Payne, his heirs, executors, administrators, or assigns, the which payment, well and truly made and done, I bind myself, my heirs, executors, and administrators, firmly by these presents; sealed with my seal, dated this 6th November, 1793. The condition of the above obligation is such, that if the above bonden Susanna Coulson, her heirs, executors, or administrators, shall well and truly make over all her right and title of a certain tract or entry of land, lying in Sumner county, on the north bank of Cumberland, opposite to the Caney fork, containing 640 acres; as, also, to grant all right of cultivating or making use of said land to the said Jos. from the date hereof, then this obligation is to be void, otherways to remain in full force and virtue. Sealed with my seal, dated as above, in the year 1793. her

SUSANNA × COULSON.

mark.

Witness present, Jas. Coulson and Valentine Dodson;—upon the back of which bond you have this day and date written your name, with the above transfer or order:—do you not believe they were written by the same person?

Answer. I do. And further this deponent saith not.

ARCHIBALD MOSSMAN.

The 1*st Deposition of Martin Dickinson.*

Question by plaintiff's agent. Have you a general acquaintance with Jacob Coulson's handwriting?

Answer. I think I have.

Question by same. How long have you been clerk of the county court of Grayson?

Answer. I have had charge of the clerk's office, of the county of Grayson, and done the business thereof, for about 26 years.

Question by same. From a comparison of the handwriting of the obligation mentioned and copied in the deposition of Archibald Mossman, and on which you have endorsed your name this day and date, and a transfer appended to his deposition, and other papers of Jacob Coulson's writing in your office, do you, or do you not, believe that the said bond was written and witnessed by him?

Answer. I do believe it was written and witnessed by him.

Question by same. Was Jacob Colson ever appointed guardian for Jno. Colson?

Answer. I have examined the records in my office, and find no such appointment.

Question by same. Have you ever heard Jno Colson say that he had sold out his claim to the land in controversy, to Fields, for 400 dollars?

Answer. As well as I can recollect, I did hear him say so.

Question by same. How long has it been since you heard Jno. Coulson say so?

Answer. I think about 12 months ago. And further this deponent saith not.

MARTIN DICKINSON.

The 1st Deposition of Jeremiah Coulson.—No. 31.

This deponent saith that he is not interested, nor will he be gainer or loser in the event of the suits, or either of them; that, in the year 1797 or 1798, Josiah Payne was at my father's house, in Grayson county, Virginia, when a conversation took place between said Payne, Jacob Coulson, and myself, respecting his business with Isaac Coulson's heirs; and that said Jos. Payne said he had no obligation or any instrument of writing from Isaac Coulson; and this deponent often heard him, the said Josiah Payne, say that he was to receive a negro boy, under 12 years old, for the purpose of discharging a debt due said Payne from Isaac Coulson.

Question. Did you ever hear Jos. Payne agree to pay the taxes on a tract of land belonging to the heirs of Isaac Coulson, laying in Tennessee, on Cumberland river?

Answer. I did hear Jos. Payne agree with Jacob Coulson to pay the taxes on said land, and take care of it for the children of Isaac Coulson. And the said Jos. Payne called upon me to be a witness to the agreement.

Question. Did you ever know Josiah Payne to receive any money or property from the widow of Isaac Coulson on account of the debt due him from Isaac Coulson?

Answer. I heard Payne say he received a horse beast from the widow of Isaac Coulson, and saw the same in his possession.

Question. What would you suppose to be the worth of the horse?

Answer. About fifty dollars at the time he received it.

Question. What time did Payne receive the horse?

Answer. About the year 1793 or 1794.

JEREMIAH COULSON. [SEAL.]

The 2d Deposition of Jeremiah Coulson.—No. 32.

Saith that he was called upon about the year 1797 or '8, by Jos. Payne and Jacob Coulson, to witness a conversation that passed between the said

Payne and Coulson respecting a certain tract of land lying in the State of Tennessee, granted to Isaac Coulson by the State of North Carolina; and that the said Payne agreed to take care of the aforesaid land for the children, heirs of Isaac Coulson, deceased. And this deponent further states that he has heard the aforesaid Jos. Payne say that there was no writing between him and Isaac Coulson, deceased. And he further saith that Jno. Coulson and Priscilla Farmer, (Priscilla Coulson, that was,) is the only surviving children *of heirs of* Isaac Coulson, deceased. And this deponent further saith that Jacob Coulson acted as guardian to the above named children and heirs of Isaac Coulson, deceased, at that time, which gave rise to the above named conversation. Further he saith not.

JEREMIAH COULSON. [SEAL.]

The 1st Deposition of Thomas Haughey.—No. 33.

Saith that about the year 1789, in frequent conversation with Isaac Coulson, he *he* informed me that he purchased a horse of Josiah Payne, for which he was, by promise, to give him a negro, or pay him eighty pounds. And this deponent further says that Jno. Coulson and Priscilla Farmer, (Priscilla Coulson that was,) is the only surviving children heirs of Isaac Coulson, deceased. Further this deponent saith not.

THOMAS HAUGHEY. [SEAL.]

The following papers were read in evidence on the trial of this cause:

Will of Isaac Walton.

The last will and testament of Isaac Walton of Smith county, and State of Tennessee, made and done at Walton's ferry, the 26th day of August, in the year of our Lord 1823.

It is my will and desire that my beloved wife receive of my estate the following property and portion to *to* her use and benefit during her natural life, and at her death to descend to my children, *shard* and share alike, viz. my negroes, General, Mary, Solomon, and Tom; of my horses, the poney and yellow bay mare and colt; of my cattle, farm cows and calves, and two steers of the largest size; of my hogs, fifteen of the largest size, and four sows and pigs; of my sheep, five of the choice ewes; of my farming tools, two ploughs, two sets of geer, 2 axes, 2 hoes, and one scythe and cradle; of my household and kitchen furniture, three feather beds and furniture, with such other of the household furniture as she may think necessary, and all the kitchen furniture; of my crop on hand 75 barrels of corn, one stack of oats, and as much flax and cotton as she may deem necessary; and, further, it is my will that my afternamed executors pay to my wife the sum of 100 dollars, out of any money now due me; and further it is my will that the balance of my perishable property be sold on a credit of twelve months, except the negroes, which I wish hired out and kept in the general stock until my children marry or become of the age of 21 years; and as they marry or become of age, their distribution share apportioned them the balance put into general stock, and so continued until they all marry or become of age. And further, it is my will that my after named executors sell the plantation on which I live, either publicly or privately, and at any subsequent time, at their discretion; and, out of the proceeds, purchased *snug* piece of land of about one hundred or one hundred and fifty

acres for my beloved wife, which is to remain to her during her natural life, and then to be sold and divided equally between my children. And further, it is my will that my negro woman Jinney be sold, either publicly or privately, by my executors; and that my interest in my mother's estate, and in the estate of William High, deceased, descend to my children equally. And, whereas, I have heretofore bargained and sold to Nathaniel W. Williams my part of the Snow creek tract of land, which I claim as one of the heirs of my father, and which is now in suit at Sparta; and likewise my part of the Payne tract of land about the mouth of Caney fork, claimed by me in like manner: Now, to prevent any further trouble to my children, I hereby give and bequeath my part or portion of said tracts of land to the said Nathaniel W. Williams, his heirs and assigns, for ever.

And as to my interest in the mill on Hickman's creek, purchased by my brother James Walton and myself, in partnership, I wish my executors, if they think it advisable, to sell the same, either publicly or privately, at their discretion, provided it can be sold for as much as I gave for it.

And, further, I wish my children to remain with my wife during their minority, or until they respectively marry; and that my executors furnish to her, from time to time, such sums of money as shall be necessary for their support and education. And, lastly, I hereby appoint my brother Timothy Walton and Alexander Allison executors to this my last will and testament.

ISAAC WALTON. [SEAL.]

Signed, sealed, and acknowledged, in presence of us,
J. RUCKS,
J. RAY,
JAMES WALTON.

STATE OF TENNESSEE, *Smith County.*

I, Jonathan Pickett, clerk of the court of pleas and quarter sessions for the county aforesaid, do hereby certify that the foregoing transcript is a just and true copy of the last will and testament of Isaac Walton, deceased, as appears of record in said court.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at office in Carthage, this 16th day of April, A. D. 1824, and 48th year of our independence.

[SEAL.] J. PICKETT, *Clk.*

Appointment of Guardian.

STATE OF TENNESSEE, *Davidson County Court, July Sessions*, 1831.

The court appoint Greenwood Payne guardian to Elvira Payne, Minerva Payne, Enos H. Payne, and Paulina Payne, minor orphans. Whereupon, the said Greenwood Payne, in open court here, gave four several bonds in the sum of $250 each, with James Rucks his security, for his faithful guardianship.

A copy from the records in my office.

Teste:

HENRY EWING,
Clerk of Davidson County Court.

Sarah Payne's Deed.

This indenture made this 20th day of June, in the year of our Lord 1807, between Sarah Payne, of the county of Davidson, and State of Tennessee, of the one part, and James Walton, of the county of Smith, and State aforesaid, of the other part, witnesseth, that, for and in consideration of the sum of $500 in hand paid, the receipt whereof is hereby acknowledged, hath bargained and sold unto the said James a certain tract or parcel of land containing, by estimation, 136 acres, lying and being in the county of Smith, and State aforesaid, on the north side of Cumberland river, adjoining Wm. Walton's survey on the west, beginning and running as follows, to wit: at an elm and ash on said Walton's west boundary, running thence east 178½ poles, to the bank of Cumberland river, to a buckeye and birch; thence up the river, with its meanders, to a buckeye and white oak, being Benjamin Johns' corner; thence west, 166¼ poles, to a dogwood and birch, on said William Walton's line: thence south, along with said Walton's, 126¼ poles, to the beginning. And I, the said Sarah Payne, for me, my heirs, executors, and administrators or assigns, do warrant, secure, and forever the before recited premises, with all that appertaineth thereunto, to the said James Walton, his heirs and assigns, for ever, against all lawful claim or claims of any person or persons whatsoever. In witness whereof, I have hereunto set my hand, and affixed my seal, the day and date above written.

her
SARAH × PAYNE. [SEAL.]
mark.

Signed, sealed, and acknowledged, in the presence of us,
W. WALTON, jurat,
ISAAC WALTON, jurat,
GEORGE W. PAYNE.

STATE OF TENNESSEE, *Smith County, June Term*, 1808.

I, Robert Allen, clerk of said county of Smith, do certify that the execution of the within deed was duly proven in open court by the oath of Isaac Walton and William Walton, subscribing witnesses thereto. Ordered to be registered.

ROBERT ALLEN, *Clk.*

Registered 1st July, 1808.

STATE OF TENNESSEE, *Smith County, Register's Office, 14th June*, 1822.

I hereby certify that the within deed of conveyance, and certificate of registration, is a true copy of the records in my office, as registered in book C, folio 103.

DAVID BURFORD,
Reg'r Smith County.

Sarah Payne's Deed.

This indenture made this fifteenth day of June, in the year of our Lord 1814, between Sarah Payne, of the county of Davidson, and State of Tennessee, of the one part, and Isaac Walton, of the county of Smith, and State

aforesaid, of the other part, witnesseth, that for and in consideration of the sum of two thousand dollars in hand paid, I do, by these presents, acknowledge myself hereby satisfied and paid for a certain tract or parcel of land lying in Smith county, and State aforesaid, on the Cumberland river, about one half mile above the Caney fork, on the north side of said river, beginning at the mouth of the first branch above the mouth of the Caney fork, on the north side of Cumberland river, running thence up said branch north eighteen degrees, west 103 poles, to a beech; thence west, 75 poles, to a stake on Walton's line; thence north with said line, 330 poles, to an elm and ash, corner of a tract of land conveyed by Sarah Payne to James Walton; thence east, 178 poles, to a buckeye and beech on the bank of the river; thence down the river, with its meanders, 454 poles, to the beginning; containing 422 acres, be the same more or less. And I, the said Sarah Payne, for me, my heirs, executors, administrators, or assigns, do warrant, secure, and for ever defend the before mentioned premises to him, the said Isaac Walton, his heirs and assigns, for ever, against all lawful claim and claims of any person or persons whatsoever.

In witness whereof, I have hereunto set my hand and seal, this day and date first above written.

her
SARAH × PAYNE.
mark.

Signed and acknowledged in presence of us,
Test:
ISAAC WALTON,
WM. WALTON.

STATE OF TENNESSEE, *Smith County*, *May Term*, 1815.

Then the execution of the within deed of conveyance was duly proven, by the oaths of William Walton and Isaac Walton, witnesses thereto: and, on motion, ordered to be registered.

Test:
ROBERT ALLEN,
Clerk Smith County.

Registered June 24th, 1815.

J. PICKETT,
Reg'r Smith County.

Sarah Payne's Deed.

STATE OF TENNESSEE, *Smith County*, *Register's Office*, *June 14th*, 1822.

I hereby certify that the within deed of conveyance, and above certificate of registration, is a true copy from the records in my office, as registered in book E, folio 137.

DAVID BURFORD,
Reg'r Smith County.

This indenture made and agreed to this 23d day of May, 1807, between Sarah Payne, of the county of Davidson, and State of Tennessee, of the one part, and James Walton, of the county of Smith, and State aforesaid, wit-

nesseth, that the said Sarah Payne, for and in consideration of the sum of $300 to her in hand paid, the receipt whereof is hereby acknowledged, hath given, granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents doth give, grant, bargain, sell, alien, convey and confirm, in the said James Walton, his heirs and assigns, for ever, a certain tract or parcel of land situate, lying, and being, in the county of Smith aforesaid, on the north side of Cumberland river, beginning at William Walton's beginning corner, at three maple trees, running thence up the river, 140 poles, to the mouth of a branch; thence up the branch northwest, 103 poles, to a beech; thence 75 poles, to a stake; thence south, 206 poles, to the beginning: to have and to hold the aforesaid tract of land, with the appurtenances, to the said James Walton, his heirs and assigns, for ever, the said Sarah Payne, for herself, her heirs, executors, or administrators, or any person claiming under them, doth and will warrant and for ever defend. In testimony whereof, I have hereunto set my hand and seal, the day and date above written.

Ack'd

her
SARAH × PAYNE. [SEAL.]
mark.

Sealed and delivered in the presence of us,
JNO. H. BOWEN,
ISAAC WALTON,
WILLIAM WALTON.

STATE OF TENNESSEE, *Smith County, June Term*, 1807.

The execution of the within deed of conveyance was acknowledged in open court, and ordered to be registered.

ROBERT ALLEN, *Clk.*

Registered 4th day of July, 1807.

STATE OF TENNESSEE, *Smith County, Register's Office, 14th June*, 1822.

I hereby certify that the foregoing deed of conveyance from Sarah Payne to James Walton is a true copy of the records, as registered in my office in book B, folio .

DAVID BURFORD,
Reg'r Smith County.

Grant to Isaac Coulson.

No. 564.

STATE OF NORTH CAROLINA.

Know ye, that we have given and granted unto Isaac Coulson, assignee of the heirs of Daniel Wells, a private in the continental line of this State, a tract of land containing 640 acres lying and being in our county of Davidson, on north side of Cumberland, beginning nearly opposite to the mouth of Caney fork, at Captain Walton's southeast corner, on a large maple on the bank of the river; runs north with said Walton's line, 636 poles, to an ash on said line; thence east 169 poles, to a lynn on the bank of the river;

thence down the river, including its several meanders, to the beginning: to hold to the said Isaac Coulson, his heirs and assigns, for ever. Dated the 15th day of September, 1787.

R'D CASWELL,
E. HICKMAN, *De.*

J. GLASGOW, *Secretary.*

Warrant No. 2591.

JACOB MYRS & WM. MULHERING, *C. C.*

It is hereby certified that the above is a true transcript taken from the books containing the copies of the military grants in my office, certified by William White, Secretary of North Carolina, and recognized by an act of the Legislature of this State, passed at Knoxville, Nov. 14th, 1811. Given under my hand, at office, in Nashville, this 19th April, 1814.

JNO. C. McLEMORE.

STATE OF TENNESSEE, *Smith County.*

The within copy of grant is duly registered in my office, in book E, folio 325, this 28th day of June, 1816.

J. PICKETT,
Reg'r of Smith County.

Received, 28th June, 1816, the State tax on the within copy of grant.

ROBERT ALLEN,
C'lk Smith County.

I. Colson's Bond.

Know all men by these presents, that I, Isaac Colson, of the State of Virginia, and county of Davidsion, do oblige myself, my heirs, and assigns, to pay to Josiah Payne 100 pounds, Virginia currency, in payment for a certain bay stud horse I bought of him, within twelve months from the date hereof, with lawful interest; otherwise, in lieu thereof, I do oblige myself to make over all my right and interest of certain entry and warrant of land of 640 acres, lying on the north side of Cumberland river, on said river, about one or two miles above the mouth of the Caney Fork, unto the said Josiah Payne, of the county and State aforesaid, or his heirs or his assigns; and if a deed or grant should issue to me before said entry or warrant should be transferred from me to said Payne, then, and in that case, I do hereby oblige myself to make a transfer of all my right, title, and interest, of the aforesaid land unto the aforesaid Josiah Payne, or his assigns; which deed and right, when made, is to be taken in full payment for the above 100 pounds and interest; and I do hereby oblige myself to warrant and defend said deed from me, my heirs, and assigns, for ever, unto the said Payne and his heirs. In witness whereof, I do hereby fix my hand and seal, this 2d day of January, 1787.

ISAAC COLSON. [SEAL.]

Witness present:
JAMES DONELSON,
WM. BUSH.

Deed of John Coulson et al. to J. Field.

This indenture made this 23d day of August, in the year of our Lord 1814. between John Colson, William Farmer, and Priscilla Farmer his wife, formerly Priscilla Coulson, all of the county of Grayson, State of Virginia, of the one part, and Jeremiah Fields, of the county of Smith, State of Tennessee, of the other part, witnesseth, that the aforesaid John Coulson, Wm. Farmer, Priscilla Farmer his wife, formerly Priscilla Coulson, for and in consideration of the sum of five hundred dollars to us in hand paid by the said Jeremiah Fields, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, aliened, enfeoffed, conveyed, and confirmed, and by these presents doth grant, bargain, and sell, alien, enfeoff, convey, and confirm, unto the said Jeremiah Fields, a certain tract or parcel of land situate, lying, and being in the county of Smith, State of Tennessee, and bounded as follows: beginning nearly opposite the mouth of the Caney fork, at Wm. Walton's southeast corner, at a large maple on the bank of Cumberland river; thence north, with the said Walton's line, 636 poles, to an ash on said line; thence east, 169 poles, to a lynn on the bank of the river; thence down the river, with its several meanders, to the beginning: containing 640 acres of land, be the same more or less. To have and to hold the aforesaid tract of land and bargained premises, together with all and singular the appurtenances thereunto belonging or in any wise appertaining, to the only proper use, benefit, and behoof of him, the said Jeremiah Fields, his heirs and assigns, for ever. And the said John Coulson, William Farmer, and Priscilla Farmer his wife, Priscilla Coulson that was, their heirs, executors, administrators, and assigns, doth covenant and agree to and with the said Jeremiah Fields, his heirs, executors, administrators, and assigns, that they will for ever warrant and defend the aforesaid land and bargained premises unto the said Jeremiah Fields, his heirs, executors, administrators, and assigns, against the claim or claims of all and every person or persons whatsoever claiming by or through us. In testimony whereof, we, the said John Coulson, William Farmer, and Priscilla Farmer his wife, Priscilla Coulson that was, have hereunto set our hands and seals, the day and year first above written.

Signed, sealed, and delivered, in the presence of us,

JNO COULSON. [SEAL.]
WM. FARMER. [SEAL.]
her
PRISCILLA × FARMER.
mark.

VIRGINIA.

At a court begun and held for Grayson county, on Tuesday, the 23d day of of August, 1814, this indenture of bargain and sale between Jno. Coulson and Wm. Farmer, and Priscilla Farmer his wife, of the one part, and Jeremiah Fields, of the other part, was acknowledged in court by the said Jno, Coulson, Wm. Farmer, and Priscilla his wife, to be their act and deed; and the said Priscilla having been first privately examined as the law directs, consenting thereunto, the same is ordered to be certified. In testimony whereof, I, Martin Dickinson, clerk of the court aforesaid, have hereunto set my hand, and affixed my seal of office, this 24th day of August, 1814, in the 39th year of our independence.

[L. S.] MARTIN DICKINSON.

VIRGINIA, *Grayson County, sct.*

I, Abner Jones, magistrate in the court of the county aforesaid, do hereby certify that the attestation hereunto annexed, made by Martin Dickinson, clerk of the court of the county aforesaid, is in due form; and that full faith and credit is due thereto in every court in the United States Given under my hand and seal, this 24th day of August, 1814, in the 39th year of our independence.

ABNER JONES. [SEAL.]

Registered June 28th, 1821.

DAVID BURFORD,
Reg'r Smith County.

STATE OF TENNESSEE, *Smith County, Register's Office, 30th July,* 1822.

I hereby certify that the within and foregoing is a true copy from the records in my office, book H. folio 2d.

DAVID BURFORD,
Reg'r Smith County.

S. Coulson's Bond.

VIRGINIA, *sct.*

Know all men by these presents, that I, Susanna Coulson, widow, of Wythe county, am held and firmly bound unto Josiah Payne, of the Western Territory, Dividson county, in the sum of one hundred pounds lawful money of Virginia, to be paid unto the said Jos. Payne, his heirs, executors, administrators, or assigns; *the which* payment well and truly made and done, I bind myself, my heirs, executors, and administrators, firmly by these presents; sealed with my seal, dated this 6th of November, 1793. The condition of the above obligation is such, that if the above *bonden* Susanna Coulson, her heirs, executors, or administrators, shall well and truly make over all her right and title of a certain tract or entry of land lying in Sumner county, on the north bank of Cumberland, opposite to the Caney fork, containing 640 acres; as, also, to grant all right of cultivating or making use of said land to the said Josiah, from the date hereof, then this obligation is to be void, *otherways* to remain in full force and virtue. Sealed with my seal, dated as above, in the year 1793.

her
SUSANNA × COULSON. [SEAL.]
mark.

Witness present:
JA. COULSON,
VALENTINE DODSON.

"Endorsed on the back of the bond the following names:" Archibald Mossman, July 8th, 1823; Martin Dickinson, July 8th, 1823; Jeremiah Coulson, July 8th, 1823.

For and in consideration of $300 to me in hand paid, by William Walton, of Smith county, and State of Tennessee, I bind myself, my heirs, &c., to make out and convey unto said Walton 73 acres 3 roods and 13 poles of land, on Cumberland river, beginning at said Walton's upper corner, on the

river running up and off for compliment, to which payment, well and truly to be made, I bind myself, my heirs, &c., jointly and severally; as witness my hand and seal, this 1st day of May, 1800. It is to be understood that the conveyance of said land is to be made within twelve months from this date.

Test:

JOSIAH PAYNE. [SEAL.]

THO. HICKMAN,
B. JOHN.

"Endorsed on the back of the bond the following names:" Isaac Walton 5th of May, 1824; Thomas Hickman, 6th of May, 1824.

For full value received, I assign all my right, title, and interest, of the within bond, to Sarah Payne, who is not to have recourse to me, should she fail in getting any thing for said obligation.

May 23, 1827. W. WALTON.

Test:
JNO. H. BOWEN,
ISAAC WALTON.

Decree.

And said cause was continued, from term to term, until this term; and now at this day, to wit, the day first above mentioned, came said parties, by their attorneys: this cause came on at a former day of this term; and, also, on this day, the 17th day of September, A. D. 1831, to be heard before the honorable Jno. McLean, upon original, amended, and supplemental bills, answers, replications, exhibits, depositions, and testimony, in presence of counsel, for the complainants and defendants, and was argued by counsel, when it appeared to the court that, on the 2d day of January, 1787, Isaac Coulson, the father of the defendants, executed and delivered to the said Josiah Payne, the father of some of the complainants, the bond in the pleadings mentioned; and that the said Isaac, by his acts, elected to pay the land as expressed in the said bond; that said Coulson died intestate about April, 1791, in Virginia, being a citizen and resident of that State, leaving the defendant his heir at law; and no conveyance was made to the said Payne by the said Coulson at the time of the death of the latter. The said land was granted to Isaac Coulson on the 15th September, 1787, and is bounded as follows: on the north side of Cumberland river, beginning nearly opposite to the mouth of the Caney fork, at Capt. Walton's southeast corner, at a large maple on the bank of the river; runs north with said Walton's line, 636 poles, to an ash on said line; thence east, 169 poles, to a lynn on the bank of the said river; thence down the said river, including its meanders, to the beginning.

That, at the time of the death of said Isaac Coulson, the equitable title to said land belonged to said Josiah Payne, the consideration for the same having been paid to said Coulson, and the legal title only, who lived in Virginia, then an infant under the age of twenty-one years; and who arrived at the age of 21, in 1809, and the legal title only descended to Jno. Coulson. It further appeared to the court that, in 1793, Josiah Payne went to Virginia, and made application to Susanna Coulson, the widow of Isaac Coulson, and to Jeremiah Coulson, the brother and administrator of said Isaac, to obtain a title to the lands; and that Mrs. Coulson, by the advice of the guar-

dian of her children, went into court, in Virginia, with a view of relinquishing the title to the land, but it was found she had no legal power so to do; and the said Susanna, by bond dated 6th Nov. 1793, agreed to make over all her right and title to the lands; the said Payne complaining that he should have to wait until the children became of age for a conveyance. Said Payne also claimed the land, and disposed of part of it previous to the year 1798; and that the said Josiah Payne, and those claiming under him, took possession of said land in October 1798, and continued in peaceable possession thereof until the service of the writs of ejectment in the pleadings mentioned, on the demise of the defendant, which were prosecuted to final judgment, and the writs of possession awarded, specified in the pleadings. It further appeared that Josiah Payne, in his life time, had agreed to sell and convey a part of said tract of land to Wm. Walton; and, after the death of said Payne, in 1805, those of the heirs of Jos. Payne, who were of full age, agreed to sell the balance of said tract of land to said Walton. This court are of opinion, and do declare, that the land in equity belonged to Jos. Payne in his life-time; and that it would be unconscientious, and against the rules of equity for the defendant, having a mere legal title, to enforce the execution of the writs of possession; and that the contract of Isaac Coulson with Josiah Payne ought to be specifically executed by a conveyance of the legal title; and that the statute of limitations of 1715, C. 48, sec. 9, does not apply to the case of an equitable owner of land in possession, having paid the consideration, and claiming the legal title only from the heir. It is therefore ordered, adjudged, and decreed, that the defendant, Jno. Coulson, his agents, attorneys, and all persons claiming under him, be perpetually enjoined from taking out a writ or writs of possession by virtue of the judgment in ejectment in this court, or taking out any executions upon said judgments. And it is further ordered, adjudged, and decreed, that all the right, title, and interest, of Jno. Coulson, the defendant, which descended to him as heir of his father, Isaac Coulson, in the land before described, be divested and vested in the complainants, the heirs at law of Josiah Payne, their heirs and assigns; and that all the right, title, and interest, of such of the complainants, the heirs of Josiah Payne, as are of full age, be divested and vested in complainants, James Walton and Nath'l W. Williams, their heirs and assigns, for ever. And it is further ordered that the legal title vested in the infant heirs of Josiah Payne, be subject to the equity of the other complainants; and, also, that the land decreed to said Walton and Williams be subject to all the equitable claims of the other complainants, the heirs of Payne. And it is further ordered, adjudged, and decreed, that the defendant pay the costs of this suit, and the suit at law.

And, at a subsequent day of this term, the following orders were made to wit:

It is agreed by the parties aforesaid, that the property in dispute is worth more than two thousand dollars.

This day came again the parties, by their attorneys; and the defendants, by their attorney, pray an appeal to the next Supreme Court of the United States, which is granted, they having given bond and security as required by law.

Ordered by the court that the clerk shall send up the original bond upon which this suit was brought to the Supreme Court of the United States.

Know all men by these presents, that I, Isaac Colson, of the State of Virginia, and county of Davidson, do oblige myself, my heirs and assigns, to

pay to Josiah Payne one hundred pounds Virginia currency, in payment for a certain bay stud horse I bought of him, within twelve months from the date hereof, with lawful interest; otherwise, in lieu thereof, I do oblige myself to make over all my right and interest of certain entry and warrant of land of six hundred and forty acres, lying on the north side of Cumberland river, on said river, about one or two miles above the mouth of the Caney fork, unto the said Josiah Payne, of the county and State aforesaid, or his heirs and assigns; and if a deed or grant should issue to me before said entry or warrant should be transferred from me to said Payne, then, and in that case, I do hereby oblige myself to make a transfer deed of all my right, title, and interest, of the aforesaid land, unto the aforesaid Josiah Payne, or his assigns; which deed and right, when made, is to be taken in full payment for the above one hundred pounds and interest; and I do hereby oblige myself to warrant and defend said deed from me, my heirs and assigns, for ever, unto the said Payne and his heirs.

In witness whereof, I do hereby fix my hand and seal, this 2d day of January, 1787.

ISAAC COLSON. [SEAL.]

Witness present:
JAMES DONELSON,
WM. BUSH.

Know all men by these presents, that we, Jeremiah Fields and Robert Allen, are held and firmly bound unto James Walton and others, complainants, in the penal sum of one thousand dollars; to which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this 29th day of September, one thousand eight hundred and thirty-one.

The condition of the above obligation is such, that, whereas, a certain suit in equity prosecuted in the federal circuit court of the United States for the District of West Tennessee, by James Walton and others, complainants, against Jno. Coulson and others, a decree was rendered in favor of the complainants, from which decree and sentence of the court, the defendants *has* prayed a writ of error to the Supreme Court of the United States: now, if the said Coulson and others shall prosecute said writ of error with effect, and, in case he fail therein, pay all cost that may be adjudged against them for such failure, then the above obligation to be void, else to be and remain in full force and virtue.

J. FIELD. [SEAL.]
ROBERT ALLEN. [SEAL.]
By DIXON ALLEN,
Attorney in Fact.

Test:
N. A. McNAIRY.
The bond very good.

UNITED STATES OF AMERICA, *District of West Tennessee.*

I, Nathaniel A. McNairy, clerk of the circuit court of the United States for the district aforesaid, do certify that the foregoing is a true and complete transcript of the original, amended, and supplemental bills, answers, replications, exhibits, depositions, and testimony, title papers, &c., that were

read on the trial of the cause at law and equity, and, also, the several orders that were made in the cause.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, at office, this 28th day of November, in the year of our Lord 1831, and of the independence of the United States the 56th.

N. A. McNAIRY.

Clk's $128 33.